

TITLE VI. BUSINESS AND OCCUPATION

CHAPTER 600: ALCOHOLIC BEVERAGES

SECTION 600.010: DEFINITIONS

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section. Any words, phrases or terms not defined herein shall have the meanings respectively ascribed to them under Chapter 311 or Chapter 312, RSMo.

INTOXICATING LIQUOR: Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent (0.5%) by volume except for non-intoxicating beer. All beverages having an alcoholic content of less than one-half of one percent (0.5%) by volume shall be exempt from the provisions of this Chapter.

LIGHT WINE: Any wine manufactured exclusively from grapes, berries and other fruits and vegetables and containing not in excess of fourteen percent (14%) of alcohol by weight.

NON-INTOXICATING BEER: Any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent (0.5%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

PERSON: Any individual, association, joint stock company, syndicate, co-partnership, corporation, receiver, trustee, conservator or other officer appointed by any State or Federal Court.

PREMISES: That portion of any building in which a licensee hereunder has his/her place of business and any additional building or portion thereof used in connection therewith and the entire lots or parcels of land on which such building is situated or which are used in connection with such building. (Ord. No. 358 §2, 6-8-93)

SECTION 600.020: LICENSE REQUIRED—CLASSES OF LICENSE

It shall be unlawful for any person to sell or expose for sale in the City of Normandy intoxicating liquor or non-intoxicating beer in any quantity without a currently valid liquor license issued by the City pursuant to this Section. A separate liquor license shall be required for each of the following classes of sales of liquor in which the licensee desires to engage.

1. *Package liquor—malt liquor only.* Sales of malt liquor containing not in excess of five percent (5%) but more than three and two-tenths percent (3.2%) by weight at retail in the original package but not for resale and not for consumption on the premises where sold.

2. *Package liquor—all kinds.* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold and sales as set forth in Subparagraph (1) above.

3. *Package liquor—non-intoxicating beer.* Sales at retail of non-intoxicating beer in the original package not to be opened or consumed on the premises of the vendor.
4. *Liquor by the drink—malt liquor/light wine only.* Sales of malt liquor containing alcohol not in excess of five percent (5%) but more than three and two-tenths percent (3.2%) and/or light wines not in excess of fourteen percent (14%) of alcohol by weight at retail by the drink for consumption on the premises where sold, including sales as set forth in Subparagraph (1) above.
5. *Liquor by the drink—all kinds.* Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subparagraphs (1), (2), and (3) above.
6. *Liquor by the drink—non-intoxicating beer.* Sales of non-intoxicating beer at retail by the drink for consumption on the premises where sold, including sales as set forth in Subparagraph (1) above.
7. *Intoxicating liquor—Sunday sales.* Notwithstanding any other provisions of this Chapter to the contrary, any person who possesses the qualifications required by this Chapter, as well as State law relating thereto, may apply for a Sunday sales license, which license shall authorize the sale of intoxicating liquor, as in this Chapter defined, on Sundays within those hours permitted by the laws of the State of Missouri. A license for Sunday sales of liquor by the drink at retail may be issued to a "restaurant bar", which is an establishment having a license for sale of liquor of all kinds at retail by the drink as provided in Subparagraph (5) above, having a restaurant or similar facility on the premises and which derives at least fifty percent (50%) of its gross income from the sale of prepared meals of food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises. A license for Sunday sales of intoxicating liquor in the original package at retail may be issued to an establishment having an appropriate City license for liquor sales under other provisions of this Chapter and licensed to sell intoxicating liquor in the original package at retail under Section 311.200, RSMo. (Ord. No. 358 §3, 6-8-93)

SECTION 600.030: APPLICATION FOR LICENSE AND RENEWAL

- A. Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to applicant obtaining a liquor license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business, and if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the City of Normandy; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located.

In addition thereto the Council may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license to an applicant.

- B. *Filing Of An Application.* Each application for an original or renewal license as provided under Section 600.020 (1) through (7) above, shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant.
- C. *Bond Requirements.*
 - 1. Each application for a license described in Section 600.020 (1) through (7) above, shall be accompanied by a bond, to be given to the City in the amount of two thousand dollars (\$2,000.00) with sufficient sureties, conditioned that the person obtaining such license shall keep at all times an orderly house, and that he/she will not sell, give away or otherwise dispose of, or suffer such to be done on or about his/her premises, any intoxicating liquor in any quantity to any person under the age of twenty-one (21), and further conditioned that he/she will not violate any of the provisions of this Section or of the Liquor Control Act of the State of Missouri and that he/she will pay all taxes and license fees provided for herein which he/she is required to pay under the provisions of any ordinance of the City. Additional sureties on such bond may be required by the Council at any time during the life of such license if, at its discretion, it deems the surety on the bond to be insufficient or impaired, and such bond shall provide that the adding of additional sureties, with or without notice to existing sureties, shall in no way impair the liability of the sureties.
 - 2. Only one (1) bond shall be required under this Section from any one (1) person and such bond shall, while in force, cover all licenses held by any one (1) applicant and all classes of sales carried on hereunder. Such bond may be sued on in the name of the City for the use and benefits of any person damaged by the breach of any of the conditions thereof.
- D. *Neighborhood Approval Required.* The application of the applicant must be signed by a majority of the property owners within a distance of two hundred (200) feet from the proposed location in all directions and measured exclusive of streets, alleys, right-of-ways, and public land.
- E. *Hearing On Application.* Upon the filing of the application with the Clerk, the Clerk shall fix a date for a hearing on the application, not less than twenty (20) days from the date of filing of the application, and shall give the applicant written notice of the date of the hearing. At such hearing the applicant shall be entitled to produce testimony under oath, and to be represented by counsel, and the City Council shall have the power to subpoena witnesses, and to take their testimony pertaining to all matters connected with the application. Any property owner, tenant, person, firm or corporation having a business license within two hundred (200) feet of the proposed establishment, shall also have the right to produce witnesses and testimony. If, after the hearing, the City Council finds that:
 - 1. The applicant is a person of good moral character, a native born or naturalized citizen of the United States of America, a registered voter and a taxpaying citizen of the City;
 - 2. No license theretofore issued to such applicant to manufacture and sell intoxicating liquors has been revoked within two (2) years of the date of the application;
 - 3. The applicant has not been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of the violation of any law applicable to the manufacture, sale or rectifying of intoxicating liquor, or that such applicant has not employed in his/her

business any person whose license has been revoked or who has been convicted for violating the provisions of such law since the date aforesaid;

4. The application is supported in writing by a majority of the property owners within two hundred (200) feet of the location in which the applicant proposes to conduct a retail liquor business; and
5. The applicant plans and proposes to conduct a retail liquor business in compliance with the laws of the State of Missouri and with this Code,

then a license may be issued to the applicant permitting him/her to conduct such business for a period as provided in Section 600.050 of this Chapter, unless such license be revoked for cause before the expiration of such time. The license may be renewed from term to term, unless the property owners and tenants, and the persons, firms, and corporations having business licenses, located within two hundred (200) feet of the applicant's place of business shall file a written protest against the renewal of such license. (Ord. No. 358 §4, 6-8-93)

SECTION 600.040: ISSUANCE AND RENEWAL OF LICENSE

- A. *Presentation Of Application And Bond To City Council—Issuance.* Upon filing of an application and bond for a license herein, such application and bond shall be presented to the City Council at its next meeting and upon approval of the application and bond, and the sureties thereon, by a majority of the Council and with the approval of the Mayor or by a two-thirds ($\frac{2}{3}$) majority of the Council irrespective of the Mayor, and upon the payment of the license tax as provided herein and upon compliance with the occupancy requirements of the City, the Mayor and the City Clerk shall grant the applicant license to conduct business in this City.
- B. *Renewal Application—Review.* Upon the filing of an application for renewal, which must be received at least thirty (30) days prior to the license expiration date, such renewal application shall be reviewed by the City Council at its next meeting. Upon approval of the majority of the Council and with the approval of the Mayor, or by a two-thirds ($\frac{2}{3}$) vote of the Council irrespective of the Mayor, and upon payment of the license tax provided herein, the Mayor and City Clerk shall renew such license.
- C. *Discretion In Issuing License.* In passing upon any application for a license under this Chapter, the City Council shall have authority to take into consideration the location of the proposed business for which a license is sought with respect to its proximity to a school, a church, a public park or playground and to other places of the character for which a license is sought, and shall have authority to refuse to issue a license when in their judgment the issuance thereof would not be in the best interest of the locality in which the applicant applies for a location of such place, and in no event shall the City Council recommend the issuance of a license in violation of any zoning law now or hereafter in force and effect or in violation of any record restrictions upon the property in which it is proposed to operate a place under such license, nor within two hundred (200) feet of any school, church or other building regularly used as a place of worship.
- D. *Separate License For Each Place Of Business.* A separate license shall be required for each place of business. Every such license issued under this Section shall particularly describe the class of license, licenses and premises where such liquor may be sold.
- E. *License To Be Posted.* Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.

- F. *Transfer Or Assignment Prohibited.* No such license issued thereunder shall be transferable or assignable.
- G. *Change Of Location.* In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the City Council. Any change of location of the enterprise prior to the issuance of such an amended license shall constitute a violation of this Section. (Ord. No. 358 §5, 6-8-93)

SECTION 600.050: LICENSE FEES AND DURATION OF LICENSE

- A. *Annual Licenses.* Licenses issued hereunder shall be dated August first (1st) and shall expire on July thirty-first (31st) of the following year, and the license fee shall be paid on August first (1st).

<i>License</i>	<i>Annual Fee</i>
Package: Malt Liquor Only	\$ 22.50
Package: All Kinds	150.00
Package: Non-Intoxicating Beer	22.50

- B. *Semi-Annual Licenses.* Licenses issued hereunder shall be dated August first (1st) and expire July thirty-first (31st) of the following year, or they shall be dated February first (1st) and expire July thirty-first (31st) of the same year, and one-half (½) of the annual license fee shall be paid semi-annually on February first (1st) and August first (1st) of each year.

<i>License</i>	<i>Annual Fee</i>
By Drink: Malt Liquor/Light Wine	\$ 52.50
By Drink: All Kinds	375.00
By Drink: Non-Intoxicating Beer	37.50

- C. *Sunday Sales.* For every Sunday sales license for the sale of intoxicating liquors of all kinds at retail by the drink or for the sale of intoxicating liquor of all kinds in the original package at retail under the provisions of Section 600.020(7) of this Chapter, the license shall be dated August first (1st) and shall expire on July thirty-first (31st) of the following year, and the license fee shall be two hundred dollars (\$200.00) and shall be paid on August first (1st).
- D. *Exceptions.* The fee for a license approved by the City Council at times other than February first (1st) or August first (1st) of any year shall be pro-rated in accordance with expiration deadlines noted in Subsections (A) through (C) above. (Ord. No. 358 §6, 6-8-93)

SECTION 600.060: REVOCATION OF LICENSE

Whenever it is shown to the City Council that a licensee under this Chapter has not at all times kept an orderly place or house, or has violated any of the provisions of this Chapter or of the Liquor Control Law of the State of Missouri, or has no license from the State Supervisor of Liquor Control or has made a false affidavit in his/her application for a license, or has failed to furnish additional sureties on his/her bond after demand therefore by the City Council, the Council, after a hearing thereon, shall revoke the license of such licensee, giving ten (10) days' written notice thereof prior

to the hearing thereon to the licensee, or any person in charge of or employed in the place licensed, stating the time, place, purpose and grounds therefore, at which hearing the licensee may have legal counsel and produce witnesses in his/her behalf. (Ord. No. 358 §7, 6-8-93)

SECTION 600.070: TYPES OF ESTABLISHMENTS ELIGIBLE FOR LIQUOR LICENSE

A. *Package Liquor Licenses.* No license of any kind shall be issued by the City Council for sale of alcoholic beverages in the original package not for resale and not for consumption on the premises where sold, except to a person engaged in, and to be used in connection with the operation of one (1) or more of the following businesses:

1. A drugstore,
2. A cigar and tobacco store,
3. A grocery store,
4. A general merchandise store,
5. A confectionery or delicatessen store,

nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00) exclusive of fixtures and liquors.

Provided however, that persons having or obtaining a license for the sale of alcoholic beverages by the drink, as set forth in Section 600.020(5) above, shall, subject to the requirements for application, approval and payment as set out elsewhere in this Chapter, also be eligible to obtain a license for the sale of alcoholic beverages in the original package not for resale and not for consumption on the premises where sold, as set forth in Section 600.020 (1) and (2) above, for use at the licensed premises, all other provisions of this Section to the contrary notwithstanding.

B. *Liquor By The Drink.* No license of any kind shall be issued by the City Council for sale of alcoholic beverages, including non-intoxicating beer, by the drink for consumption on the premises where sold except by approval of the City Council.

C. *Exceptions.*

1. No person or corporation holding a valid liquor license from the City of Normandy on the date of passage of this Chapter, June 8, 1993, shall be deprived of renewal of said license for failure to comply with the provisions of Subsections (A) through (C) herein.
2. This Section shall not apply to the possession by a druggist of intoxicating liquor purchased by him/her from a licensed vendor under the Liquor Control Law of the State of Missouri, or intoxicating liquor lawfully acquired and transported into the State by him/her pursuant to that law, such liquor to be used in connection with the business of a druggist in compounding medicine or as a solvent or preservative, nor shall this Section apply to the sale of intoxicating liquors by a druggist on prescription from a regularly licensed physician.
(Ord. No. 358 §8, 6-8-93)

SECTION 600.080: OTHER PROVISIONS**A. *Sale Or Handling Of Alcoholic Beverages By Persons Under The Age Of Twenty-One.***

1. Except as provided herein, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or non-intoxicating beer.
2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register and accept payment for, and sack for carryout, intoxicating liquor or non-intoxicating beer. Delivery of intoxicating liquor or non-intoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.

B. *Persons Apparently Intoxicated And Persons Under Twenty-One Not To Be Provided With Intoxicating Liquor Or Non-Intoxicating Beer.* It shall be unlawful for any licensee under this Section or his/her employee to sell or supply intoxicating liquor or non-intoxicating beer or permit such to be sold or supplied to a habitual drunkard or to any person who is intoxicated or appearing to be in a state of intoxication. Neither intoxicating liquor nor non-intoxicating beer shall be given, sold or otherwise supplied to any person under the age of twenty-one (21) years, but this Section shall not apply to supplying intoxicating liquor to a person under that age for medicinal purposes only or by the parents or guardians of such persons or by a physician.**C. *Place Of Sales To Be Within View Of Street, Etc.*** It shall be unlawful for any licensee to sell intoxicating liquors in a place, building or room where there are blinds, screens, swinging doors, curtains or any other thing in such building or room that will obstruct or obscure the interior of such room from public view from the street, or in any room not located on the ground floor or level immediately abutting on a public street.**D. *Only Liquor Authorized By License To Be Kept On Premises.*** It shall be unlawful for the holder of any license pursuant to this Section to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.**E. *Sales For Off-Premises Consumption To Be In Original Package Of Not Less Than Eight Ounces.*** No person licensed under the provisions of this Chapter to sell intoxicating liquor at retail in the original package, not to be consumed on the premises where sold, shall sell any such intoxicating liquor in any original package containing less than fifty (50) milliliters. (Ord. No. 358 §9, 6-8-93)**SECTION 600.090: DAYS AND HOURS WHEN SALES PROHIBITED****A.** No person having a license under this law, nor any employee of such person, except as provided in Subsection (B) of this Section, shall sell, give away, or otherwise dispose of, or suffer the same to be done upon or about his/her premises, any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. Sunday and 6:00 A.M. Monday. If the person has a license to sell liquor by the drink his/her premises shall be and remain a closed place as defined in this Section between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. Sunday and 6:00 A.M. Monday. Where such

licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this Section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one (1) room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in this Section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "*closed place*" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this Section shall be deemed guilty of a Class A misdemeanor. Nothing in this Section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this Section by a wholesaler licensed under the provisions of Section 311.180, RSMo., to a person licensed to sell the intoxicating liquor at retail.

- B. Any person licensed pursuant to Section 311.200, RSMo., shall not be permitted to sell, give away, or otherwise dispose of, suffer the same to be done upon or about his/her premises, any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. Sunday and 6:00 A.M. Monday.
- C. Notwithstanding any other provision of this Chapter to the contrary, any person who possesses the qualifications required by this Chapter, as well as State law relating thereto, may apply for a Sunday sales license, which license shall authorize the sale of intoxicating liquor, as in this Chapter defined, on Sunday within those hours permitted by the laws of the State of Missouri. A license for Sunday sales of liquor by the drink at retail may be issued to a "*restaurant bar*", which is an establishment having a license for sale of liquor of all kinds at retail by the drink as provided in Section 600.020(5) above, having a restaurant or similar facility on the premises and which derives at least fifty percent (50%) of its gross income from the sale of prepared meals of food consumed on such premises. A license for Sunday sales of intoxicating liquor in the original package at retail may be issued to an establishment having an appropriate City license for liquor sales under other provisions of this Chapter and licensed to sell intoxicating liquor in the original package at retail under Section 311.200, RSMo.
- D. When January first (1st), March seventeenth (17th), July fourth (4th), or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the national football league is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Section, or any other provision of law to the contrary.
(Ord. No. 358 §10, 6-8-93)

SECTION 600.100: EXCEPTIONS

- A. Notwithstanding any other provision of this Chapter, a permit for the sale of intoxicating liquor and non-intoxicating beer, for consumption on premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.

- B. To secure the permit, the applicant shall complete a form provided by the City, but no applicant shall be required to furnish a personal photograph as part of the application. The applicant shall pay a fee of twenty-five dollars (\$25.00) for such permit.
- C. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor and non-intoxicating beer on that day beginning at 11:00 A.M.
- D. At the same time that an applicant applies for a permit under the provisions of this Section, the applicant shall notify the Director of Revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the Director of Revenue within fifteen (15) days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three (3) years. Under no circumstances shall a bond be required from the applicant.
- E. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

SECTION 600.110: DRINKING PROHIBITED ON PUBLIC STREETS, SIDEWALKS, AND COMMERCIAL PARKING LOTS—PRIMA FACIE EVIDENCE OF DRINKING—PENALTY

- A. The drinking or ingestion of alcoholic beverages, including but not limited to non-intoxicating beer, is hereby prohibited on the public streets, public sidewalks and upon any commercial parking lot outside the buildings where sold, whether sold by the package or for consumption on the premises where sold.
- B. Possession of an opened or unsealed bottle, can or other container of any alcoholic beverage shall be deemed prima facie evidence of drinking or ingesting an alcoholic beverage. Having an opened, unsealed bottle, can or other container of any alcoholic beverage upon the person, in sight or out of sight, in the passenger section or compartment of a vehicle, whether parked or in motion shall be deemed prima facie evidence of drinking or ingestion by the driver and passengers, when apprehended in such vehicles. (Ord. No. 358 §12, 6-8-93)

SECTION 600.120: PENALTY

Any person violating any of the provisions of this Chapter shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than ninety (90) days, or both. (Ord. No. 358 §13, 6-8-93)

CHAPTER 605: LICENSES AND BUSINESS TAXES AND REGULATIONS

Cross References—As to prohibition of issuance of licenses and permits to delinquent taxpayers, etc., see §100.230; as to alcoholic beverages generally, see ch. 600; as to dog licenses and license tax, see ch. 205; as to canvassers and solicitors generally, see ch. 615; as to vehicle stickers, see §300.050; as to furnishing pornographic material to minors, see §215.770; as to sales tax, see ch. 150.

ARTICLE I. IN GENERAL

SECTION 605.010: ENUMERATION OF OCCUPATIONS, BUSINESSES, ETC., SUBJECT TO THIS ARTICLE

- A. The following occupations, trades, businesses, subjects, callings, vocations and professions shall be subject to this Article.
- B. The City shall levy and collect a license tax on the following:
 - 1. Abstractors.
 - 2. Abstract agencies.
 - 3. Accountants (excluding certified public accountants).
 - 4. Accounting services (excluding certified public accountants).
 - 5. Actuarial firms.
 - 6. Advertising agencies and companies.
 - 7. Ambulances.
 - 8. Ambulance services.
 - 9. Architects (maintaining an office in the City).
 - 10. Artists.
 - 11. Associations (except governmental, eleemosynary and non-profit).
 - 12. Auctioneers (maintaining an office in the City).
 - 13. Automobile accessory dealers.
 - 14. Automobile agents and dealers.
 - 15. Auxiliary bank facilities.
 - 16. Banks.

17. Barbers.
18. Barber shops.
19. Boardinghouses.
20. Bookbinders.
21. Bookkeepers.
22. Bookkeeping services.
23. Brokers.
24. Buggies.
25. Business schools.
26. Canvassers.
27. Carriages.
28. Cigar and tobacco stands.
29. Coal dealers.
30. Collection agencies.
31. Concerts.
32. Confectioners.
33. Contractors.
34. Correspondence schools.
35. Country clubs.
36. Decorators.
37. Delivery trucks.
38. Druggists.
39. Drummers.
40. Express company agencies.
41. Florists.
42. Flour mills.

43. Foreign coffee and tea dealers and agents.
44. Funeral directors.
45. Funeral homes.
46. Grocers.
47. Hair dressers.
48. Hair dressers shops.
49. Hay scales.
50. Health schools.
51. Hotels.
52. Job printing plants.
53. Ice trucks.
54. Insurance agents.
55. Insurance claim adjustment agencies and companies.
56. Insurance companies.
57. Insurance inspection agencies and companies.
58. Insurance rating agencies and companies.
59. Laundry wagons.
60. Loan agents.
61. Loan companies.
62. Lumber dealers.
63. Manufacturing agents.
64. Merchants of all kinds.
65. Merchant delivery companies.
66. Milk wagons.
67. Monument dealers and agencies.
68. Mortgage brokers.

69. Mortuaries.
70. Mutual fund brokers.
71. Newspaper offices.
72. Nursery stock agents.
73. Office buildings.
74. Office service agencies and companies.
75. Organizations (except governmental, eleemosynary and non-profit).
76. Painting contractors.
77. Paper hangers.
78. Patent right dealers.
79. Photographers in office and upon streets.
80. Piano and organ dealers and agents.
81. Plastering contractors.
82. Printers.
83. Public buildings.
84. Public grounds.
85. Public halls.
86. Publishers.
87. Ready to wear clothing agencies.
88. Real estate agents (maintaining an office in the City).
89. Real estate appraisers.
90. Rooming houses.
91. Savings and loan associations and corporations.
92. Sewing machine agents.
93. Shoe cobblers shops.
94. Shoe shining parlors.

95. Storage warehouses.
96. Street contractors.
97. Subcontractors.
98. Surveying companies (maintaining an office in the City).
99. Tailors.
100. Tailor made clothing agencies.
101. Taverns.
102. Telegraph companies.
103. Telephone companies.
104. Ticket agencies and companies.
105. Tinnners.
106. Title insurance companies.
107. Transfer trucks.
108. Travel agencies and companies.
109. Undertakers.
110. Wagons.
111. Wholesale houses.
112. Wholesale merchants.
113. Wood dealers,

and all other vocations whatsoever, and fix the rate of carriage of persons and wagonage, drayage and cartage of property.

C. The City shall levy and collect a license tax and regulate the following:

1. Automobiles.
2. Automobile trailers.
3. Auto yards.
4. Bakers.
5. Bakeries.

6. Bakery delivery wagons.
7. Baseball parks.
8. Bathhouses and masseurs.
9. Blacksmith shops.
10. Bottling works.
11. Brick contractors.
12. Bridge contractors.
13. Building contractors.
14. Buses.
15. Butchers.
16. Carts.
17. Cement contractors.
18. Cleaning establishments.
19. Corn doctors.
20. Delivery autos.
21. Delivery wagons.
22. Drays.
23. Draymen.
24. Dye works.
25. Feather renovators.
26. Ferries.
27. Foundries.
28. Gas companies.
29. Gaugers.
30. Hackmen.
31. Hawkers.

32. Horse and cattle dealers.
33. Hucksters.
34. Ice cream parlors.
35. Ice dealers.
36. Ice plants.
37. Ice plant agencies.
38. Ice wagons.
39. Installment houses and agencies.
40. Laundries.
41. Laundry agencies.
42. Laundry wagons.
43. Light companies.
44. Lunch counters.
45. Lunch stands.
46. Lunch wagons.
47. Machine shops.
48. Manufacturing and other corporations or institutions.
49. Mercantile agents.
50. Milk wagons.
51. Moving picture shows.
52. Oil stations.
53. Omnibuses.
54. Omnibus drivers.
55. Opera houses.
56. Outdoor advertising.
57. Pawnbrokers.

58. Peanut and popcorn stands.
59. Peddlers.
60. Plumbers.
61. Plumbing contractors.
62. Porters.
63. Power companies.
64. Pressing establishments.
65. Private parks.
66. Produce and poultry dealers.
67. Public lectures.
68. Public meetings.
69. Restaurants.
70. Sand plants.
71. Sewer contractors.
72. Sidewalk contractors.
73. Soft drink and ice cream stands and vendors.
74. Stands of every kind.
75. Steam fitters.
76. Stockyards.
77. Stone contractors.
78. Street railroad cars.
79. Subcontractors.
80. Taxicabs.
81. Tractors.
82. Transfer and job wagons.
83. Traveling and auction stores.

84. Vehicles of all kinds.

85. Wagon yards.

86. Water companies.

87. Wholesale and retail inspectors.

88. Wholesale butchers,

and to regulate the same, and the landing thereof, within the limits of the City, and all others pursuing like occupations.

D. The City shall levy and collect a license tax, regulate, restrain, prohibit and suppress the following:

1. Amusement parks.

2. Animal hospitals.

3. Auto wrecking shops.

4. Ball alleys.

5. Balls.

6. Bathhouses.

7. Bill posters.

8. Billiard tables.

9. Boarding houses.

10. Bowling alleys.

11. Boxing and sparring exhibitions.

12. Carnival and street fairs.

13. Cars.

14. Child care centers and clinics.

15. Circuses and shows.

16. Dance halls.

17. Dancing schools or studios.

18. Day care centers and clinics.

19. Drive-in theaters.

20. Driving ranges.
21. Employment offices and agencies.
22. Equestrian performances.
23. Fluoroscopic views.
24. Fortune tellers.
25. Golf courses.
26. Health clubs.
27. Health schools.
28. Hotels.
29. Intelligence offices and agencies.
30. Itinerant vendors.
31. Junk dealers.
32. Lung testers.
33. Magnifying glasses.
34. Masseurs.
35. Menageries.
36. Miniature golf courses.
37. Money brokers.
38. Money changers.
39. Muscle developers.
40. Museums.
41. Nursing homes.
42. Ordinaries.
43. Palmists.
44. Parades and/or exhibitions.
45. Penny arcades.

46. Picture shows.
47. Pistol galleries.
48. Pool and other tables.
49. Porters.
50. Private venereal hospitals.
51. Public masquerades.
52. Riding academies.
53. Riding stables.
54. Rooming houses.
55. Runners and solicitors for steamboats.
56. Sales of unclaimed goods by express companies and common carriers.
57. Shooting galleries.
58. Shows and amusements.
59. Skating rinks (roller and ice).
60. Stages.
61. Street exhibitions.
62. Taxicabs.
63. Telescopic views.
64. Ten pin alleys.
65. Theatrical and other exhibitions;

and all other vocations and businesses whatsoever, and all others pursuing like occupations.
(Ord. No. 205 §1(14.1), 2-14-84)

SECTION 605.020: LICENSE REQUIRED

Every person engaged within the City of Normandy, Missouri, in an occupation, trade, business, subject, calling, vocation, or profession provided for in Article I, Section 605.010, except those provided specifically for elsewhere in these laws shall obtain an annual license.
(Ord. No. 205 §2(14.2), 2-14-84)

SECTION 605.030: LICENSE FEE BASED ON ANNUAL GROSS RECEIPTS OR SALES

Every person engaged within the City of Normandy, Missouri, in an occupation, trade, business, subject, calling, vocation or profession provided for in Article I, Section 605.010, except those provided specifically for elsewhere in these laws, shall pay an annual occupation license fee based upon the annual gross receipts or sales of said occupation, trade, business, subject, calling, vocation, or profession as provided for in Section 605.040. (Ord. No. 205 §3(14.3), 2-14-84)

SECTION 605.040: COMPUTATION OF LICENSE FEE

- A. A flat license fee of twenty-five dollars (\$25.00) shall be charged for sales or receipts of twenty-five thousand dollars (\$25,000.00) or less; for gross sales or receipts in excess of twenty-five thousand dollars (\$25,000.00), one dollar (\$1.00) for each additional one thousand dollars (\$1,000.00) of gross sales or receipts.
- B. The license fee provided herein shall be computed upon the annual statement of sales provided for in Section 605.080; provided that no license shall be issued to a person provided for in Article I for the sum less than twenty-five dollars (\$25.00), which sum shall be paid by each person whose aggregate sales, as verified by affidavit, are twenty-five thousand dollars (\$25,000.00) or less, per annum. (Ord. No. 205 §4(14.4), 2-14-84)

SECTION 605.050: APPLICATION FOR LICENSE

- A. Each application for a City license shall be in writing on a form provided by the City, addressed to the City Clerk or his/her designee and shall contain therein the following information:
 - 1. Name and residence address of the applicant, and his/her business address within the City;
 - 2. Type of license applied for;
 - 3. If license applied for is for a period of time less than one (1) year, the period for which such license is desired and the date upon which the license, if issued, is to become effective; and
 - 4. Such other information as may be necessary to establish the qualifications of the applicant for the type of license applied for, and such additional information as may be necessary to determine whether such license should be issued.
- B. Each application for a City license shall be accompanied by the required license fee or by a receipt thereof signed or initialed by the City Clerk or his/her designee.
- C. No license required under the provisions of this Chapter shall be issued to any person, firm or corporation required to have Workers' Compensation insurance coverage under Chapter 287, RSMo., 1986, as amended, unless a certificate of insurance for Workers' Compensation coverage shall be provided to the City. Issuance of a license shall not be construed to ensure or guarantee to any person that a licensee has or will maintain Workers' Compensation insurance coverage. The City shall not be liable to any person for any reason if a licensee fails to have or maintain such insurance or fails to provide such coverage to one (1) or more individuals. Pursuant to the provisions of S.B. 251 of the 87th Missouri General Assembly, nothing contained in this Chapter

shall be construed to create or constitute a liability to or a cause of action against the City in regard to the issuance or non-issuance of any license for failure to provide evidence of Workers' Compensation coverage. (Ord. No. 364 §1(14.5), 10-12-93)

SECTION 605.060: NEW BUSINESSES

- A. Persons commencing a new business or occupation or a business or occupation which has been in business less than twelve (12) months for which the license fee is based upon gross sales or receipts shall estimate the anticipated gross sales or receipts for the license year, or part thereof remaining, and the license fee shall be computed thereon. For purposes of estimating gross sales or annual gross receipts if the business has been in operation for less than a twelve (12) month period, the gross sales or annual gross receipts shall mean twelve (12) times the average monthly gross receipts or sales for which any business was conducted.
- B. In the license application for the next license year thereafter, if the licensee shall show an underpayment for the preceding license year, based upon actual gross sales or receipts for the license year, the licensee shall pay such underpayment together with the current license fee. If actual gross receipts or sales for such preceding year would entitle the licensee to a refund, the licensee shall show his/her computations upon his/her application, and the City Administrator, upon verification thereof, shall first credit such refund against any license fee due or owing, and shall pay the balance of the refund, if any, to the licensee. (Ord. No. 205 §6(14.6), 2-14-84)

SECTION 605.070: OLD BUSINESSES

- A. A business which has been in operation for the previous twelve (12) months shall pay a license fee based upon the gross sales or receipts for the twelve (12) months of the license year and shall use the previous year's gross sales or receipts as a basis for computing the fee for the license at the beginning of the business year, which fee shall be adjusted at the end of the business year in accordance with the following procedure in order to reflect actual gross sales or receipts incurred during the license year.
- B. In the license application for the next license year thereafter, if the licensee shall show an underpayment for the preceding license year, based upon actual gross sales or receipts for the license year, the licensee shall pay such underpayment together with the current license fee. If actual gross receipts or sales for such preceding year would entitle the licensee to a refund, the licensee shall show his/her computations upon his/her application, and the City Administrator or his/her designee, upon verification thereof, shall first credit such refund against any license fee due or owing, and shall pay the balance of the refund, if any, to the licensee. (Ord. No. 205 §7(14.7), 2-14-84)

SECTION 605.080: ANNUAL STATEMENT OF GROSS SALES OR GROSS RECEIPTS

- A. It shall be the duty of every person, whether notified or not, engaged in an occupation, trade, business, subject, calling, vocation, or profession, provided for in Article I which constitutes an "*old business*" under Section 605.070 to provide to the City Administrator or his/her designee, between the first (1st) day of January and first (1st) day of February of each year, a statement, verified by affidavit, of the true amount of gross sales or gross receipts of such person during the year last preceding the first (1st) day of January, which statement and affidavit shall be a part of the person's application for license form required by Section 605.050.

- B. Persons qualifying as a "*new business*" under Section 605.060 shall provide the City Administrator or his/her designee with a statement, verified by affidavit, of the estimated or anticipated gross sales or gross receipts for the license year. This statement and affidavit shall be provided at the time of application for a license, and become part of said application form required by Section 605.050. (Ord. No. 205 §8(14.8), 2-14-84)

SECTION 605.090: LICENSE YEAR

The license required by this Article shall be effective from the first (1st) day of February through the last day of January of the next calendar year and the yearly license shall be due and payable. (Ord. No. 205 §9(14.9), 2-14-84)

SECTION 605.100: RECORD OF SALES AND RECEIPTS

It shall be the duty of each person provided for in Section 605.010 to keep a proper record and account of all sales made or receipts of said person, which account shall always be open to the inspection of the City Administrator or his/her designee to verify the statement made by the licensee pursuant to Section 605.080. (Ord. No. 205 §10(14.10), 2-14-84)

SECTION 605.110: PRESERVATION AND DISPLAY OF LICENSE

All licenses granted by the City pursuant to this Chapter shall be carefully preserved and shall be displayed in a conspicuous place in the place of business authorized for the conduct of such business; provided, that where a licensee has not established place of business within the City, such licensee shall carry such license on his/her person while engaged in the conduct of the licensed business or activity and shall display such license to any Police Officer or prospective customer on request. (Ord. No. 205 §11(14.11), 2-14-84)

SECTION 605.120: VIOLATIONS

It shall be unlawful for any person who has not first procured and paid for a City license to engage in any business, occupation, pursuit, profession or trade, or in keeping or maintaining any institution, establishment, article, utility or commodity for which a City license is required, or to knowingly make a false statement in his/her application for a license as to his/her gross annual business or annual gross receipts or as to other conditions or factors on which the license fee is or shall be based. (Ord. No. 205 §12(14.12), 2-14-84)

SECTION 605.130: GENERAL PENALTY FOR VIOLATIONS OF CODE

In case any person shall fail, neglect or refuse to deliver the application and statements herein required, or to pay the tax levied by this Article on or before the last day of January of each year, he/she shall, upon conviction, be subject to the penalties provided in Section 100.220 of this Code and in addition thereto, the City Administrator or his/her designee shall assess the aggregate amount of sales of such occupations, trades, businesses, subjects, callings, vocations and professions at double their aggregate value, to be ascertained by the best information he/she can obtain, and he/she shall also report the delinquency to the City Attorney. (Ord. No. 205 §13(14.13), 2-14-84)

SECTION 605.140: RIGHT OF CITY TO SUSPEND OR REVOKE LICENSE

- A. The City hereby reserves the right to suspend or revoke any license granted under the provisions of this Chapter for good cause shown. *"Good cause"* includes, but is not limited to, suspension or revocation by the State of any corresponding State license; any cause for which a license would not be issued upon application therefor; any false statement of a material fact in the application for license; conviction of a licensee of a felony or any offense under this Chapter or any offense involving moral turpitude, or procuring or permitting any employee or agent to commit any such offense or other violations of the Municipal Code.
- B. The Council, after a hearing thereon, shall suspend or revoke the license of such licensee, giving ten (10) days notice, in writing, thereof prior to the hearing thereon to the licensee, or any person in charge of or employed in the place licensed, stating the time, place, purpose and grounds therefore, and at which hearing the licensee may have legal counsel and produce witnesses in his/her behalf. (Ord. No. 205 §14(14.14), 2-14-84)

SECTION 605.150: BUSINESS ESTABLISHMENTS TO MAINTAIN ATTENDANTS ON DUTY

- A. Each business establishment in the City shall have at least one (1) attendant on duty in such establishment at all times that such establishment is open for business. Such attendant shall be twenty-one (21) years or more of age.
- B. The attendant referred to in Subsection (A) of this Section shall locate himself/herself in the area of the establishment where the customers ordinarily conduct their business in such establishment.
- C. Any Police Officer of the City who finds a violation of this Section occurring in his/her presence is empowered to close such establishment until such time as such establishment complies with the provisions of this Section. (Ord. No. 205 §15(14.15), 2-14-84)

SECTION 605.160: SEPARATE LICENSE REQUIRED FOR EACH PLACE OF BUSINESS

No one (1) license shall authorize any person to carry on any business in more than one (1) place within the City at the same time, except as herein provided. (Ord. No. 205 §16(14.16), 2-14-84)

SECTION 605.170: WHEN MORE THAN ONE BUSINESS AUTHORIZED UNDER ONE LICENSE

Any person carrying on or conducting any business or vocation for which a license is required by the provisions of this Code or any other ordinance, unless otherwise provided herein or therein, and for which he/she shall have taken out a license, may, under such license, conduct or carry on any other one (1) or more businesses or vocations for which a license is required, without taking out a license for such other business or vocation; provided, that this Section shall not authorize any such person to conduct or carry on under such license any business or vocation, the license for which as fixed by this Chapter or other ordinance is higher than the license under which such person is operating, or which is not conducted or carried on at the same stand or place of business as the business or vocation for which he/she has already been licensed is carried on or conducted; provided, further, that this Section shall not apply to the business or vocation of keeping vehicles of any kind for pay or hire. (Ord. No. 205 §17(14.17), 2-14-84)

SECTION 605.180: TRANSFERABILITY OF LICENSE

Except as may be specifically provided otherwise, no City license shall be transferable or assignable.
(Ord. No. 205 §18(14.18), 2-14-84)

ARTICLE II. PROVISIONS FOR BANKS, FINANCIAL INSTITUTIONS, ETC.**SECTION 605.190: IN GENERAL**

- A. The following occupations, trades, businesses, subjects, callings, vocations and professions shall be subject to an annual license fee based upon their annual gross receipts from the operation of their endeavor. The listing is exemplary and not all inclusive and, therefore, all others pursuing like occupations shall be subject to this Section.
1. Banks or trust companies and bank corporations.
 2. Brokers.
 3. Commodities and futures brokerage agents and companies.
 4. Insurance agents and companies.
 5. Leasing agents and companies.
 6. Manufacturers representatives.
 7. Real estate agents and companies (maintaining an office in the City).
 8. Savings and loan companies and corporations.
 9. Stock, bond or brokerage agents and companies.
- B. The license application and license requirements shall be the same as those outlined in Article I of this Chapter. (Ord. No. 205 §19(14.19), 2-14-84)

**ARTICLE III. HOTELS, MOTELS, ROOMING HOUSES, LODGING
HOUSES, BOARDINGHOUSES AND PRIVATE CLUBS****SECTION 605.200: DEFINITIONS**

For the purposes of this Article the following words and phrases shall have the meanings respectively ascribed to them by this Section:

BOARDINGHOUSE: Any dwelling other than hotel or motel where meals, or lodgings and meals, for compensation are provided for one (1) or more persons.

HOTEL, MOTEL: Any building occupied as the abiding place of persons, who are lodged with or without meals, in which, as a rule, the rooms are occupied singly for hire, and in which there are more than ten (10) sleeping rooms.

PRIVATE CLUB: Any dwelling or structure where lodging or board and lodging is furnished to its own members, including fraternity chapter houses. (Ord. No. 205 §20(14.20), 2-14-84)

SECTION 605.210: LICENSE—REQUIRED—APPLICATION

It shall be unlawful for any person to establish, maintain or conduct any hotel, motel, rooming house, boardinghouse or lodging house or private club where lodging is furnished to members within the City without making application for and securing a license or special use permit if required to do so. Application for such license and or special use permit shall be made to the City Administrator or his/her designee and shall set forth the name and address of the person expecting to operate such hotel, motel, boardinghouse, rooming house or lodging house or private club; the location of same, the number of rooms available for guests; and the capacity thereof in number of guests that can be accommodated. (Ord. No. 205 §21(14.21), 2-14-84)

SECTION 605.220: LICENSE—INSPECTION OF PREMISES—REPORT, ETC., TO COUNCIL—ISSUANCE OF LICENSE

Upon receipt of the application provided for by Section 605.210, the City Administrator or his/her designee shall refer the same to the Building Commissioner, who shall make an inspection of the premises from the standpoint of health and sanitation, and to the Chief of the Fire Department, who shall make an inspection from the standpoint of safety. The Building Commissioner and the Chief of the Fire Department, shall make a report of their inspection, which, together with the application, shall be referred to the City Council. If the City Council is satisfied that the establishment contemplated by the applicant is in compliance with the law, this Code and other ordinances of the City, it shall direct the issuance of the license. (Ord. No. 205 §22(14.22), 2-14-84)

SECTION 605.230: LICENSE

The annual license fee for establishments covered by this Article shall be as follows:

1. *Hotels and motels.* Twenty-five dollars (\$25.00) per room.
2. *Rooming houses, lodging houses and boardinghouses.* Twenty-five dollars (\$25.00) per room.
3. *Private clubs.* Twenty-five dollars (\$25.00) per room. (Ord. No. 205 §23(14.23), 2-14-84)

SECTION 605.240: LICENSE—RENEWALS—ANNUAL INSPECTION OF PREMISES

The operator of any establishment covered by this Article shall in the month of January of every year make application for the renewal of his/her license, at which time inspections shall be made as upon original application and the annual license fee paid. (Ord. No. 205 §24(14.24), 2-14-84)

**SECTION 605.250: INSPECTION AND ALTERATION OF PREMISES GENERALLY—
REVOCATION OF LICENSE**

The City Administrator or his/her designee may at any time require the inspection of any hotel, motel, boardinghouse, rooming house or lodging house or private club by the Building Commissioner or Chief of the Fire Department, and may order any alterations or changes made or the installation of any safety appliance that may be necessary to render the premises sanitary, safe or suitable for the purpose for which they are used. In the event of failure to comply with any such requirements within a period of thirty (30) days, the license shall be revoked.
(Ord. No. 205 §25(14.25), 2-14-84)

ARTICLE IV. MANUFACTURERS**SECTION 605.260: "MANUFACTURER" DEFINED**

Every person who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining, or by the combination of raw materials, semi-finished or finished goods, or shall purchase and sell manufactured articles such as he/she manufactures or uses in manufacturing shall be held to be a manufacturer for the purposes of this Article, except as is or may be otherwise provided by this Chapter or by ordinance.
(Ord. No. 205 §26(14.26), 2-14-84)

SECTION 605.270: LICENSE—REQUIRED

It shall be unlawful for any person to engage in the conduct of any business as a manufacturer without procuring a license therefor and paying a license or occupational tax, as prescribed by this Article. (Ord. No. 205 §27(14.27), 2-14-84)

**SECTION 605.280: LICENSE—APPLICATION AND STATEMENTS—LICENSE FEE
GENERALLY**

Every manufacturer, as defined by Section 605.260, desiring to engage in such business in the City shall file with the City Administrator or his/her designee on or before the last day of January of each year an application for a license for the ensuing year, on such forms as may be prescribed by the City Administrator or his/her designee. Such application shall be accompanied by a statement showing the annual gross amount of all receipts during the preceding calendar year. Such application shall be accompanied by the license fee, which shall be the sum of twenty-five cents (\$0.25) per one thousand dollars (\$1,000.00) for the first (1st) one hundred fifty thousand dollars (\$150,000.00) and one dollar (\$1.00) for each one thousand dollars (\$1,000.00) or fraction thereof in excess of one hundred fifty thousand dollars (\$150,000.00) during the preceding calendar year; the minimum license fee shall be the sum of twenty-five dollars (\$25.00).
(Ord. No. 205 §28(14.28), 2-14-84)

**SECTION 605.290: LICENSE—LICENSE FEES, ETC., FOR MANUFACTURERS FIRST
BEGINNING BUSINESS**

Whenever any person shall first engage in the business of manufacturing in the City, as defined by

Section 605.260, it shall be his/her duty to make application to the City Administrator or his/her designee for a license as prescribed by this Article and file with the City Administrator or his/her designee his/her estimate of the gross amount of receipts during such year and pay the prescribed tax on such estimated return, calculated in the same manner as set forth in Section 605.280. The minimum license fee shall be the sum of twenty-five dollars (\$25.00). Thereafter, on or before the last day of January of the following calendar year, such person shall file with the City Administrator or his/her designee a statement of the actual amount of gross receipts during such year and pay the additional license fee for such year, if any. Such person shall at the same time file a statement giving like estimates for the succeeding calendar year, and pay the license fee for such succeeding year based upon the estimates so made on or before the last day of January of the following calendar year. (Ord. No. 205 §29(14.29), 2-14-84)

ARTICLE V. PRIVATE WATCHMEN, DETECTIVES AND SECURITY GUARDS

SECTION 605.300: COUNTY LICENSE REQUIRED—EXEMPTIONS CARRYING FIREARMS

No person shall be permitted to work in the City as a private watchman, private detective or security guard at any time unless he/she is then licensed or certified by the County to perform such work. (Ord. No. 205 §30(14.30), 2-14-84)

ARTICLE VI. AMUSEMENTS AND AMUSEMENT DEVICES

SECTION 605.310: DEFINITIONS

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

AMUSEMENT TABLE: Any machine or device which, upon the insertion of a coin, slug, token, plate or disk, or by the payment of any price, may be operated by the public generally by manipulating special equipment whereby a score is established, the object of which is to score a member or members, of a high total score, whether a prize is offered or not, when the element of skill in such manipulation predominates over chance or luck. It shall include the games of shuffleboard and so-called table pool, bowling table and other similar table games.

BOWLING ALLEYS: All places, either indoor or outdoor, where the game of tenpins or bowling may be played and where a fee is charged, either per game or per hour, or for any other period of time. The game as herein referred to means a game that is played by rolling a ball on floor or ground level as opposed to a table, hereinafter provided for. It shall not relate to churches or other charitable, educational or religious organizations which provide bowling alley facilities for their members without pay for fee.

JUKEBOX: Any music vending machine, contrivance or device, which upon the insertion of a coin, slug, token, plate, disk or key into any slot, crevice or other opening, or by payment of any price, operates or may be operated for the emission of songs, music or similar amusement, including a moving picture show in conjunction with such music or songs.

MECHANICAL AMUSEMENT DEVICE: Any machine which, upon the insertion of a coin, slug, token, plate or disk, or by the payment of any price, may be operated by the public generally for

use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball and mechanical grab machines, video games, and all games, operations or transactions similar thereto, under whatever name they may be indicated.

MERCHANDISE VENDING MACHINE: Any automatic vending machine used for the sale of cigarettes, food, drink or confections costing more than four cents (\$0.04) and controlled by the insertion of a coin.

PERSON: Any person owning any equipment or machine of a type mentioned in this Article; the person in whose place of business any such equipment or machine is placed for use by the public; and the person having control over any such equipment or machine; provided, that the payment of the license fee thereon, as required by this Article, by any such person shall be deemed in compliance with this Article. (Ord. No. 205 §31(14.31), 2-14-84)

SECTION 605.320: GAMBLING DEVICES PROHIBITED

Nothing in this Article shall be construed in any way to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the State. (Ord. No. 205 §32(14.32), 2-14-84)

SECTION 605.330: LICENSE REQUIRED—TO WHOM LICENSE FEE PAID—FORM FOR LICENSE APPLICATION

Any person displaying for public patronage or keeping for operation any bowling alley, merchandise vending machine, jukebox, amusement table or mechanical amusement device shall be required to obtain a license from the City upon payment of a license fee. Application for such license shall be made to the City Administrator or his/her designee upon a form to be supplied by him/her for that purpose. (Ord. No. 205 §33(14.33), 2-14-84)

SECTION 605.340: CONTENTS OF APPLICATION FOR LICENSE—QUALIFICATION OF APPLICANT

A. Each application for a license under this Article shall contain the following information:

1. Names and address of the applicant, age, date and place of birth.
2. Prior convictions of applicant, if any.
3. Place where bowling alley, machine, amusement table or device is to be displayed or operated and the business conducted at that place.
4. Description of machines to be covered by the license, mechanical features, name of manufacturer and serial number.

B. No license shall be issued to any applicant unless he/she shall be over twenty-one (21) years of age and a citizen of the United States. (Ord. No. 205 §34(14.34), 2-14-84)

SECTION 605.350: ISSUANCE OR DENIAL OF LICENSE

The City Administrator or his/her designee shall determine if the application complies with this Chapter and other laws of the City of Normandy and shall either approve or disapprove the application on that basis. Only in the event of such disapproval, or otherwise at the discretion of the City Administrator shall the application be referred to the City Council. In all other events the license may be granted by the City Administrator or his/her designee.
(Ord. No. 205 §35(14.35), 2-14-84)

SECTION 605.360: ANNUAL LICENSE FEES—ANNUAL RENEWAL OF LICENSE

- A. Every applicant, before being granted a license under this Article, shall pay the following annual license fee for the privilege of operating or maintaining for operation the type of equipment herein previously defined and set out below opposite the license fee.

Merchandise vending machine on items selling for a price in excess of four cents (\$0.04)	\$ 3.00 per machine
Jukebox	10.00 per machine
Mechanical amusement device	50.00 per machine
Amusement table	15.00 per table
Bowling alley	10.00 per alley.

- B. The license required by this Article shall be effective from the first (1st) day of February through the last day of January of the next calendar year and the yearly license shall be due and payable. (Ord. No. 205 §36(14.36), 2-14-84)

SECTION 605.370: DISPLAY OF LICENSE—TRANSFER OF LICENSE FROM ONE DEVICE TO ANOTHER

- A. The license or licenses herein provided for shall be posted permanently and conspicuously at the location of the equipment or machine or affixed thereto on the premises where the equipment or device is to be operated or maintained to be operated.
- B. Such license may be transferred from one (1) machine, piece of equipment or device to another similar piece of equipment upon application to the City Administrator or his/her designee to such effect and the giving of a description and the serial number of the piece of equipment, machine or device. Not more than one (1) such piece of equipment or device shall be operated under one (1) license, and the applicant or licensee shall be required to procure a license for each piece of equipment and machine displayed or operated by him/her. (Ord. No. 205 §37(14.37), 2-14-84)

SECTION 605.380: TRANSFER OF LICENSE TO NEW BUSINESS LOCATION

If the licensee shall move his/her place of business to another location within the City, the license may be transferred to such new location upon application to the City Administrator or his/her designee, giving the street and number of the new location; provided, that the new location shall be

approved by the City Administrator or his/her designee in the same manner as hereinbefore provided. (Ord. No. 205 §38(14.38), 2-14-84)

SECTION 605.390: PROHIBITIONS AND RESTRICTIONS

- A. No person holding a license under this Article shall permit the playing of jukeboxes as herein defined between the hours of 1:30 A.M. and 6:00 A.M. central standard time or daylight saving time, as the case may be, of any day.
- B. No person shall permit the playing of jukeboxes, mechanical amusement devices and other similar equipment within two hundred fifty (250) feet of any church, public or parochial school or playground.
- C. No person shall be granted a license to operate a business in the City of Normandy where income is entirely from amusements and amusement devices or similar equipment; except that a permit may be granted to a person operating a business where gross income from other sources is seventy-five percent (75%) or more of gross receipts. Said person may be granted a permit to operate up to four (4) amusements or amusement devices or similar equipment in or around the business establishment.
- D. It shall be the duty of the applicant for such permits to prove to the satisfaction of the City the gross receipts of his/her or its business from other sources is seventy-five percent (75%) or more of gross income. (Ord. No. 205 §39(14.39), 2-14-84)

SECTION 605.400: WHEN DEVICES MAY BE SEIZED, IMPOUNDED AND DESTROYED

If the City Administrator shall have reason to believe that any mechanical amusement device or piece of equipment as herein described is used or being used as a gambling device, such machine or piece of equipment may be seized by the Police and impounded; and if, upon trial of the exhibitor for allowing it to be used as a gambling device, such exhibitor is found to be guilty, such machine shall be destroyed by the Police. (Ord. No. 205 §40(14.40), 2-14-84)

SECTION 605.410: REVOCATION OF LICENSE

Every license issued under this Article is subject to the right of revocation, which is hereby expressly reserved, should the licensee, directly or indirectly, permit the operation of any merchandise vending machine or other equipment herein described and defined contrary to the provisions of this Article or the laws of the State. Each such license may be revoked by the City Council after written notice to the licensee, which notice shall specify the Code or law violations with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violations. At such hearing the licensee and his/her attorney may be present and submit evidence of witnesses in his/her defense. (Ord. No. 205 §41(14.41), 2-14-84)

ARTICLE VII. TAXICABS

SECTION 605.420: TAXICAB DEFINED

The term "*taxicab*" as used in this Chapter, shall apply to any motor vehicle performing a bona fide

for hire taxicab service having a capacity of not more than five (5) passengers, exclusive of the driver, and not operated on a regular route or between fixed termini.

SECTION 605.430: LICENSE REQUIRED—EXPIRATION DATE—ANNUAL RENEWAL

No taxicab shall be offered for and engaged in carrying passengers, with or without baggage, for hire over or upon the public streets or places in the City until a license for such taxicab so operated shall have been obtained as herein provided. License shall be in effect until the last day of January next following the date of issuance and shall be renewable annually.

(Ord. No. 205 §43(14.43), 2-14-84)

SECTION 605.440: APPLICATION FOR LICENSE—EVIDENCE OF TECHNICAL SKILL—LIABILITY INSURANCE

- A. Each person desiring to engage in the taxicab business to carry passengers, with or without baggage, for hire over or upon the public streets or places in the City shall submit to the City Administrator or his/her designee, a written application for a permit therefor, and such application shall be verified by the owner of the taxicabs proposed to be used in such business. The application shall contain such information as may be required by the City to enable it to decide whether or not to grant the license, including the following statements:
1. The taxicab owner desires a license from the City to operate a specified number of taxicabs for the conveyance of passengers, with or without baggage, for hire over and upon the public streets and places of the City.
 2. The name and address of the taxicab owner and, if a corporation, in addition to its name and address the name and address of each officer thereof.
 3. The State license number of each taxicab and the amount and holder of any lien, chattel, mortgage or other encumbrance thereon.
 4. The rates to be charged and the name and address of the operator of each taxicab.
 5. Facts showing that the granting of a license will serve the convenience and necessity of the community.
- B. Each applicant shall produce satisfactory evidence of technical skill, and he/she shall carry liability insurance in the amount of twenty-five thousand dollars (\$25,000.00) for each individual and fifty thousand dollars (\$50,000.00) limit for each accident, and covering ten thousand dollars (\$10,000.00) dollars in property damage insurance, evidence of which shall be filed with the City Administrator or his/her designee upon filing the application for said license.
- (Ord. No. 205 §44(14.44), 2-14-84)

SECTION 605.450: CONDITION PRECEDENT TO GRANTING OF LICENSE

As a condition precedent to the granting of a taxicab license, the City Administrator or his/her designee shall find that the applicant therefor is, or if the applicant is a corporation, that the officers and directors thereof are, financially responsible and of such character and general fitness as to

command the confidence of the community, and that the granting of the license is necessary for the convenience and advantage of the community. (Ord. No. 205 §45(14.45), 2-14-84)

SECTION 605.460: ANNUAL LICENSE—LICENSE FEES

The licensee shall apply to the City Administrator or his/her designee for a taxicab license, the annual fee shall be calculated as defined in Sections 605.030 and 605.040 of this Chapter. (Ord. No. 205 §46(14.46), 2-14-84)

SECTION 605.470: POSTING OF LICENSE

Taxicab business licenses shall be posted conspicuously in the principal office in the City of each such business; provided, that any business which operates only one (1) taxicab may post such license within the taxicab at a position where it is in plain view of the passengers. (Ord. No. 205 §47(14.47), 2-14-84)

SECTION 605.480: VEHICLE INSPECTIONS—TAXICABS NOT TO BE OPERATED WITHOUT CERTIFICATE OF SERVICEABILITY

All taxicabs operated by the licensees hereunder shall be inspected semi-annually by some competent mechanic, and a certificate of serviceability shall be filed with the City Administrator or his/her designee for each taxicab in operation under the license herein granted; and upon the issuance of an original taxicab license, the licensee shall first submit his/her taxicabs for inspection and shall obtain such certificate of serviceability prior to the operation of any such taxicab. (Ord. No. 205 §48(14.48), 2-14-84)

SECTION 605.490: TAXI METERS—DISPLAY OF FARES TO BE CHARGED

- A. All taxicabs shall be equipped with an automatic meter for the purpose of measuring the fare to be charged, except where a flat charge is provided, and the face of such meter shall at all times be in plain view of the passengers to the rear of the front seat.
- B. The rate of fares to be charged shall also be posted in all taxicabs and shall be in plain view of the passengers to the rear of the front seat. (Ord. No. 205 §49(14.49), 2-14-84)

SECTION 605.500: QUALIFICATIONS AND DUTIES OF DRIVERS

Every driver of a taxicab operated on the public streets and way of the City shall:

1. Be duly licensed hereunder.
2. Be duly licensed as a chauffeur by the State.
3. Wear a uniform cap with the name of the owner appearing plainly thereon.
4. Wear on his/her coat or similar outer garment the chauffeur's license and the driver's license issued him/her by the State. (Ord. No. 205 §50(14.50), 2-14-84)

SECTION 605.510: SUSPENSION AND REVOCATION OF LICENSES

The City hereby reserves the right to suspend or revoke any license granted under the provisions of this Article in accordance with the provisions outlined in Section 605.140 of this Chapter.
(Ord. No. 205 §51(14.51), 2-14-84)

CHAPTER 610: MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. BI-STATE DEVELOPMENT AGENCY FACILITIES AND CONVEYANCES—FARE COLLECTION AND REGULATING OTHER CONDUCT

SECTION 610.010: DEFINITIONS

As used in this Article, the following terms have the following meanings:

AGENCY: The bi-state development agency created by compact under Section 70.370, RSMo.

CONVEYANCE: Includes bus, paratransit vehicle, rapid transit car or train, locomotive, light rail vehicle, rail vehicle, or other vehicle used or held for use by the agency as a means of transportation of passengers.

FACILITIES: Includes all property and equipment, including, without limitation, rights-of-way and related trackage, rails, signals, power, fuel, communication and ventilation systems, power plants, stations, terminals, signage, storage yards, depots, repair and maintenance shops, yards, offices, parking lots and other real estate or personal property used or held by the agency for or incidental to the operation, rehabilitation or improvement of the public mass transportation system of the agency.

FARE MEDIA: Includes any token, badge, ticket, coin, document, pass, transfer or card used to gain entry to the facilities or conveyances of, or make use of the services, of the agency.

PERSON: Includes any individual, firm, copartnership, corporation, association or company; and

SOUND PRODUCTION DEVICE: Includes, but is not limited to, any radio receiver, phonograph, television receiver, musical instrument, tape recorder, compact disk player, cassette player, speaker device and any sound amplifier. (Ord. No. 385 §1, 3-14-95)

SECTION 610.020: CONSTRUCTION

In interpreting or applying this Article, the following provisions shall apply:

1. Any act otherwise prohibited by this Article is lawful if preformed by an officer, employee or designated agent of the agency acting within the scope or his/her employment or agency;
2. The singular shall mean and include the plural; the masculine gender shall mean and include the feminine and the neuter genders; and vice versa. (Ord. No. 385 §2, 3-14-95)

SECTION 610.030: PROHIBITED CONDUCT

The following acts are prohibited to the extent provided in this Section:

1. No person shall use or enter upon any conveyance of the agency without payment of the fare or other lawful charges established by the agency. Any person on any light rail conveyance

must have valid proof of payment in his/her possession. This proof of payment must be valid to or from the station the passenger is using, and must have been used for entry for the trip then being taken;

2. No person shall use any fare media to gain entry to the facilities or conveyances of, or make use of the services of the agency, except as provided, authorized or sold by the agency and in accordance with any restriction on the use thereof imposed by the agency.
3. No person shall enter in a vehicle or park upon parking lots designated by the agency as requiring payment to enter, either by electronic gate or parking meters, where the cost of such parking fee is visibly displayed at each location, without payment of such fees or other lawful charges established by the agency;
4. No person shall sell, provide, copy, reproduce or produce, or create any version of any fare media;
5. No person shall put or attempt to put any paper, article, instrument or item, other than fare media issued by the agency and valid for the place, time and manner in which used, into any fare box, pass reader, ticket vending machine, parking meter, parking gate or other fare collection instrument, receptacle, device, machine or location;
6. No person shall perform any act which interferes with the provision of transit service or obstructs the flow of traffic on facilities or conveyances or which would in any way interfere or tend to interfere with the safe and efficient operation of the facilities or conveyances of the agency;
7. All persons on or in any facility or conveyance of the agency shall obey any instructions on notices or signs duly posted on such facility or conveyance;
8. No person shall falsely represent himself/herself as an agent, employee or representative of the agency.
9. No person on or in any facility or conveyance shall:
 - a. Litter, dump garbage, liquids, or other matter, or create a nuisance, hazard or unsanitary condition, including but not limited to spitting and urinating, except in facilities provided and designated for such acts by the agency;
 - b. Drink any alcoholic beverage or possess any opened or unsealed container of alcoholic beverage, except on premises duly licensed for the sale of alcoholic beverages, such as bars and restaurants;
 - c. Enter or remain in any facility or conveyance while his/her ability to function safely in the environment of the agency transit system is impaired by the consumption of alcohol or any drug;
 - d. Consume foods or liquids of any kind, except in those areas specifically authorized for such acts by the agency;
 - e. Smoke or carry an open flame or lighted match, cigar, cigarette, pipe or torch, except in those areas or locations specifically authorized for such acts by the agency; or

- f. Throw or cause to be propelled any stone, projectile or other article at, from, upon or in a facility or conveyance;
 - g. Create any unreasonable noise through the use of any sound production device. Use of radios and other devices listened to solely by headphones or earphones and inaudible to others is permitted;
 - h. Interfere with any lamp, electric light, or electric fixture;
 - i. Destroy, mark, soil or paint, or draw, inscribe, write, spray paint or place graffiti upon, or remove, injure or tamper with any facility, conveyance, sign, advertisement or notice of the agency or authorized by the agency;
- 10. No weapon or other instrument intended for use as a weapon may be carried in or on any facility or conveyance, except by law enforcement personnel. For the purposes hereof, a weapon shall include, but not be limited to, a firearm, switchblade knife, sword, or any instrument of any kind known as blackjack, billy club, club, sandbag, metal knuckles, leather bands studded with metal, wood impregnated with metal filings or razor blades; except that this Subdivision shall not apply to a rifle or shotgun which is unloaded and carried in any enclosed case, box or other container which completely conceals the item from view and identification as a weapon.
 - 11. No explosives, flammable liquids, acids, fireworks or other highly combustible materials or radioactive materials, may be carried on or in any facility or conveyance;
 - 12. No person, except as specifically authorized by the agency, shall enter or attempt to enter into any area of a facility or conveyance not open to the public, including, but not limited to train operator's cabs, conductor's cabs, bus operator's seat location, closed-off areas, mechanical or equipment rooms, concession stands, storage areas, interior rooms, tracks, roadbeds, tunnels, plants, shops, barns, train yards, garages, or any area marked with a sign restricting access or indicating a dangerous environment.
 - 13. No person may ride on the roof, the coupler between light rail vehicles, or on any other exterior area of any light rail vehicle or bus or other conveyance operated by the agency;
 - 14. No person shall extend any part of his/her person or any item, article or other substance outside of the window or door of a moving conveyance operated by the agency;
 - 15. No person shall enter or leave a conveyance operated by the agency except through the entrances and exits provided for that purpose;
 - 16. No animals may be taken on or into any conveyance or facility except the following:
 - a. An animal enclosed in a container, accompanied by the passenger and carried in a manner which does not annoy other passengers; and
 - b. Working dogs for law enforcement agencies, agency dogs on duty, dogs properly harnessed and accompanying blind or hearing-impaired persons to aid such persons, or dogs accompanying trainers carrying a certificate of identification issued by a dog school.
 - 17. Bicycles are prohibited on conveyances, except when specifically authorized by permit of the agency;

18. No vehicle shall be operated carelessly, or negligently, or in disregard of the rights or safety of others or without due caution and circumspection, or in such a manner as to be likely to endanger persons or property, on facilities of the agency. The speed limit on parking lots and access roads shall be posted as fifteen (15) miles per hour unless otherwise designated.
(Ord. No. 385 §3, 3-14-95)

SECTION 610.040: REMOVAL OF VEHICLES

- A. Stalled, disabled, or illegally parked vehicles may be removed from the roadways of the agency property by the agency and parked or stored elsewhere at the risk and expense of the owner.
- B. Motor vehicles which are left unattended or abandoned on the property of the agency for a period of over twenty-four (24) hours may be removed, except as permitted by special parking agreements or permits, as provided for in Sections 304.155 through 304.158, RSMo., except that the removal may be authorized by personnel designated by the agency. (Ord. No. 385 §4, 3-14-95)

SECTION 610.050: PUNISHMENT

Any person committing a violation of this Article shall be subject to arrest and upon conviction in a court of competent jurisdiction, shall pay a fine in an amount of not less than twenty-five dollars (\$25.00) and no greater than two hundred fifty dollars (\$250.00) per violation.
(Ord. No. 385 §5, 3-14-95)

CHAPTER 615: CANVASSERS AND SOLICITORS

Cross Reference—As to solicitation in city parks, see §240.300 of this Code.

SECTION 615.010: CANVASSER OR SOLICITOR DEFINED

As used in this Chapter, a "*canvasser or solicitor*" is defined as any individual, whether a resident of the City or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he/she is collecting advance payments on such sales or not; provided, that such definition shall include any person who, for himself/herself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop or any other place within the City for the purpose of exhibiting samples and taking orders for future delivery.
(CC 1975 §6-1; Ord. No. 198 §2)

SECTION 615.020: PERMIT REQUIRED

It shall be unlawful for any solicitor or canvasser to engage in such business within the City without first obtaining a permit therefor in compliance with the provisions of this Chapter.
(CC 1975 §6-2; Ord. No. 198 §1)

Cross Reference—As to prohibition of issuance of permits to delinquent taxpayers, see §100.230 of this Code.

SECTION 615.030: APPLICATION FOR PERMIT—FILING FEE

Each application for a permit under this Chapter shall file with the City Clerk a sworn application in writing, in duplicate, on a form to be furnished by the City Clerk, which shall give the following information:

1. Name and description of the applicant.
2. Permanent home address and full local address of the applicant.
3. A brief description of the nature of the business and the goods or services to be sold.
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
5. The length of time for which the right to do business is desired.
6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery.

7. Two (2) photographs of the applicant, taken within sixty (60) days immediately prior to the date of filing of the application, which pictures shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
8. The fingerprints of the applicant and the names of at least two (2) reliable property owners of the County of St. Louis, Missouri, who will certify as to the applicant's good character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
9. A statement as to whether or not the applicant has been convicted of any felony or misdemeanor, the nature and place of the offense and the punishment or penalty assessed therefor.
10. At the time of filing the application, a fee of one dollar (\$1.00) shall be paid to the City Clerk to cover the cost of investigation of the facts therein. (CC 1975 §6-3; Ord. No. 198 §3)

SECTION 615.040: INVESTIGATION OF APPLICANT—ISSUANCE OR DENIAL OF PERMIT—FORM OF PERMIT AND RECORD OF PERMITS ISSUED

- A. Upon receipt of an application for permit under this Chapter, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he/she deems necessary for the protection of the public welfare.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his/her disapproval and his/her reasons therefor, and return the application to the City Clerk, who shall notify the applicant that his/her application is disapproved and that no permit will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his/her approval and execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit, along with the application, to the City Clerk, who shall, upon payment of the prescribed permit fee, deliver to the applicant his/her permit. Such permit shall also contain the signature of the City Clerk and the City Seal and shall show the name, address and photograph of the permit holder, the class of permit issued and the kind of goods to be sold or services to be rendered thereunder, the amount of fee paid, the date of issuance and the length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such soliciting or canvassing. The City Clerk shall keep a permanent record of all permits issued. (CC 1975 §6-4; Ord. No. 198 §4)

SECTION 615.050: PERMIT FEE—DURATION OF PERMIT

The permit fee which shall be charged by the City Clerk for each such permit shall be two dollars (\$2.00) per ten (10) day period, and no permit shall be issued for more than a ten (10) day period. (CC 1975 §6-5; Ord. No. 198 §5)

SECTION 615.060: BOND REQUIRED OF NON-RESIDENT APPLICANTS OR REPRESENTATIVES OF OUT OF STATE FIRMS

Every applicant for a permit under this Chapter who is not a resident of the City, or who, being a resident of the City, represents a firm whose principal place of business is located outside the State, shall file with the City Clerk a surety bond, running to the City in the amount of one thousand dollars (\$1,000.00), with surety acceptable to and approved by the City Council, conditioned that the applicant shall comply fully with all the provisions of this Chapter and other ordinances of the City and the Statutes of the State regulating and concerning the business of solicitor and guaranteeing to any citizen of Normandy that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the City doing business with such solicitor that the property purchased will be delivered, or that the services to be performed will in fact be performed, according to the representations of the solicitor. Action on such bond may be brought in the name of the City to the use or benefit of the aggrieved person. (CC 1975 §6-6; Ord. No. 198 §6)

SECTION 615.070: SOLICITOR'S BADGE AND DEPOSIT THEREFOR

The City Clerk shall issue to each permit holder at the time of delivery of his/her permit a badge which shall contain the words "Licensed Solicitor," the period for which the permit is issued and the number of the permit, in letters and figures easily discernible from a distance of ten (10) feet. Such badge, shall during the time such permit holder is engaged in soliciting, be worn constantly by him/her on the front of his/her outer garment in such a way as to be conspicuous. Such badge shall be returned to the City Clerk within two (2) days of its expiration date. A deposit of two dollars (\$2.00) shall be required to insure the return of such badge. (CC 1975 §6-7; Ord. No. 198 §7)

SECTION 615.080: REQUIRED DISPLAY OF PERMIT

Solicitors and canvassers are required to exhibit their permits at the request of any citizen. (CC 1975 §6-8; Ord. No. 198 §8)

SECTION 615.090: ENFORCEMENT DUTIES OF POLICE—CITY CLERK'S RECORD OF VIOLATIONS

- A. It shall be the duty of any Police Officer of the City to require any person seen soliciting or canvassing, and who is not known by such officer to hold a currently valid permit so to do, to produce his/her solicitor's or canvasser's permit and to enforce the provisions of this Chapter against any person found to be in violation thereof.
- B. The Chief of Police shall report to the City Clerk all convictions for violation of this Chapter, and the City Clerk shall maintain a record for each permit issued and record the reports of violation therein. (CC 1975 §6-9; Ord. No. 198 §9)

SECTION 615.100: REVOCATION OF PERMITS

- A. Permits issued under the provisions of this Chapter may be revoked by the City Council, after notice and hearing, for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for permit;
 2. Fraud, misrepresentation or false statement made in the course of carrying on his/her business as solicitor or as canvasser;
 3. Any violation of this Chapter;
 4. Conviction of any crime or misdemeanor involving moral turpitude; or
 5. Conducting the business of soliciting or of canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her last known address at least five (5) days prior to the date set for hearing. (CC 1975 §6-10; Ord. No. 198 §11)

CHAPTER 620: REGULATIONS FOR PAWNBROKERS

SECTION 620.010: DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, and words shall have the following meanings unless otherwise indicated by context:

CHIEF OF POLICE: The Chief of Police of the City of Normandy Police Department.

DIRECTOR: The Finance Director of the City of Normandy.

MONTH: That period of time from one (1) date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last date of such following month, and when computations are made for a fraction of a month, a day shall be one-thirtieth (1/30) of a month.

NET ASSETS: The book value of the current assets of a person or pawnbroker less its applicable liabilities as stated in this definition. Current assets include the investment made in cash, bank deposits, merchandise inventory, and loans due from customers excluding the pawn service charge. Current assets do not include the investments made in fixed assets of real estate, furniture, fixtures, or equipment; investments made in stocks, bonds, or other securities; or investments made in prepaid expenses or other general intangibles. Applicable liabilities include trade or other accounts payable; accrued sales, income, or other taxes; accrued expenses; and notes or other payables that are unsecured or secured in whole or part by current assets. Applicable liabilities do not include liabilities secured by assets other than current assets. Net assets must be represented by a capital investment unencumbered by any liens or other encumbrances to be subject to the claims of general creditors.

PAWNBROKER: Any person engaged in the business of lending money on the security of pledged goods or engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

PAWNSHOP: The location at which, or premises in which, a pawnbroker regularly conducts business.

PERSON: An individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

PERSON OF GOOD MORAL CHARACTER: A person who has not been convicted of any State, Federal, or municipal offense involving drugs or narcotics, robbery, burglary, theft, stealing, receiving stolen property, embezzlement, extortion, forgery, gambling, perjury, any weapons offense, or any crime of violence.

PLEDGED GOODS: Tangible personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his/her business in connection with a pawn transaction.

SECURED PERSONAL CREDIT LOAN: Every loan of money made in this City, the payment of which is secured by a security interest in tangible personal property which is physically delivered into the hands of the lender at the time of the making of the loan and which is to be retained by the lender while the loan is a subsisting obligation. (Ord. No. 368 §1, 11-10-93)

SECTION 620.020: LICENSES

- A. *License Required.* No person shall operate a pawnshop in the City of Normandy unless such person obtains a pawnshop license issued by the City in accordance with Chapter 605 of the City of Normandy and the provisions of this Chapter. A license is required for each place where pawnbroking business is transacted, and no one shall act as an agent, employee, or solicitor for any pawnbroker while such pawnbroker is engaged in such business at a place other than that specified in the license.
- B. *Licensing Year Is Calendar Year.* All licenses issued under this Chapter are for a period of one (1) year, or portion of one (1) year, and expire on Midnight of December thirty-first (31st). The license fee for any license which is issued for a portion of a year shall be pro-rated by the Director.
- C. *Application For New Pawnshop License.* An application for a new pawnshop license shall be under oath and on forms prescribed by the Director, shall state the full name and place of residence of the applicant, the place where the business is to be conducted, and shall contain other relevant information sufficient to inform the Director regarding the qualifications of the applicant for a license as required by the Director. If the applicant is a partnership, the application shall state the full name and address of each partner, and whether such partner is a general partner or a limited partner. If the applicant is a corporation, the application shall give the full name and address of each officer, shareholder, and director. Further, a "*certificate in good standing*" issued by the Missouri Secretary of State shall be filed with the Director. The application shall be accompanied by:
1. An investigation fee of five hundred dollars (\$500.00) if the applicant is unlicensed at the time of applying for the pawnshop, or two hundred fifty dollars (\$250.00) if the application involves a second (2nd) or additional license to an applicant previously licensed for a separate location, or involves substantially identical principals and owners of a licensed pawnshop at a separate location; and
 2. Proof of general liability insurance in the amount of fifty thousand dollars (\$50,000.00); and
 3. An annual fee of five hundred dollars (\$500.00).
- D. *Transfer Of Existing Pawnshop License—Change Of Ownership Of Licensed Pawnshop.* Transfer of an existing pawnshop license, or the change of ownership of a licensed pawnshop, is the same as an initial application for a new pawnshop license. Licenses are personal to the licensee.
- E. *Investigation By Director.* The Director shall investigate the facts contained in an application for a new pawnshop license, and shall request the assistance of the Chief of Police and any other person having knowledge of the facts contained in the application, or who is authorized to investigate these facts.
- F. *Standards For Issuance.* No license shall be issued to any person who:
1. Is not of good moral character, or to any pawnshop employing persons who are not of good moral character; or
 2. Makes a false statement of material facts in the application for a license or renewal licenses; or
 3. Has a felony or misdemeanor conviction which either directly relates to the duties and responsibilities of the occupation of pawnbroker or which otherwise makes the applicant presently unfit for a license; or

4. Does not have net assets of at least fifty thousand dollars (\$50,000.00) readily available for use in conducting business as a pawnshop for each licensed pawnshop; or
5. Each applicant for a pawnshop license at the time of filing application shall file with the City or County, if the City or County so requires, a bond satisfactory to him/her and in an amount not to exceed five thousand dollars (\$5,000.00) for each license with a surety company qualified to do business in this State. The aggregate liability of such surety shall not exceed the amount stated in the bond. The bond shall run to the State for the use of the State and of any person or persons who may have a cause of action against the obligor of such bond under the provisions of Sections 367.011 and 367.060, RSMo. Such bond shall be conditioned that the obligor will comply with the provisions of Sections 367.011 and 367.060, RSMo., and of all rules and regulations lawfully made by the City or County, and will pay to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or persons from such obligor under and by virtue of the provisions of Sections 367.011 and 367.060, RSMo., during the time such bond is in effect.

If the Director is unable to verify that the applicant meets the net assets requirement for a licensed pawnshop, the Director may require a finding, including the presentation of a current balance sheet, by an independent certified public accountant, that the accountant has reviewed the books and records of the applicant, and that the applicant meets the net assets requirement of this Chapter.

- G. *Exemption From Requirement For New Pawnshop License.* No person who is lawfully operating a pawnshop on or before November 10, 1993, shall be required to obtain a license under this Section in order to continue operating such pawnshop, so long as such person does not violate any other provisions of Sections 367.011 to 367.060, RSMo. Such persons may continue to operate those pawnshops then in existence, but thereafter must receive annual renewed licenses even though the operation of such pawnshop might cause the number of pawnbrokers in the City of Normandy to exceed the number determined by operation of Subsection (H) of this Section. Such persons shall be required to pay the five hundred dollars (\$500.00) annual fee prescribed in Subsection (I) of this Section, but such payment shall be in lieu of any occupational license fee.
- H. *Limitation On Number Of Pawnbrokers In The City Of Normandy.* Subject to the provisions of Subsection (G) of this Section, no license for engaging in the business of pawnbroker shall be issued when the issuance thereof would increase the number of such licenses outstanding and in force at that time to more than one (1) per each five thousand (5,000) inhabitants residing in the City of Normandy, Missouri.
- I. *Subsequent License Applications.* Subject to the first (1st) year for which a license is issued to a pawnbroker, each pawnbroker shall make a renewal application to the Director. The application shall be filed by December first (1st) of the current license year, and shall be on the forms, and shall contain such information, as the Director may require. The forms shall contain such information as will assist the Director in determining whether conditions have changed, and whether a renewal license should be issued for the subsequent licensing year. The Director may request the assistance of the Chief of Police or any other City employee or person having knowledge of the truth or falsity of the matters contained in the application, or who is able to investigate those matters. The annual fee for the issuance of a renewal license is five hundred dollars (\$500.00). A renewal license is required in those cases where no initial license was issued pursuant to the provisions of Subsection (H) of this Section.

J. Suspension Or Revocation Of License.

1. If the Director believes that conditions have changed such that the holder of a pawnshop license would not still be eligible to receive a pawnbroker's license, or that the holder of the pawnshop license is in violation of this Chapter or State law pertaining to pawnshops, the Director may suspend the license.
2. If the Director believes that the holder of a pawnshop license may remedy the situation, giving rise to the Director's belief that conditions have changed, and has not previously been in violation of this Chapter or State law pertaining to pawnshops, the Director may suspend the license. If the Director believes that the changed condition(s) are such that, if true, the licensee would not be able to remedy the situation in a reasonable time, or if the holder of the pawnshop license has previously been in violation of this Chapter or State law pertaining to pawnshops, then the Director may revoke the pawnshop license.
3. If the Director believes that the safety, morals, or peace of residents of the City of Normandy, Missouri, is immediately affected by the change in conditions, the Director may suspend or revoke the license prior to a hearing, but he/she shall afford the licensee a hearing within five (5) days of the suspension or revocation if the licensee desires such a hearing. If the Director believes that the changed condition is not of such imminent hazard to the safety, morals, or peace of the residents of the City of Normandy, he/she may have a hearing prior to this action. He/she shall give the licensee at least ten (10) days' notice of the hearing.
4. Any party aggrieved by a decision of the Director shall have the right of appeal to the Circuit Court of St. Louis County.

K. Issuance Of Pawnshop Licenses Prohibited Near Churches/Synagogues, Schools, Residentially-Zoned Districts Or Other Pawnshops.

1. No license shall be issued for the operation of a pawnshop as defined within this Chapter wherein said pawnshop will be located within one thousand feet (1,000) feet of the property line of any church, synagogue, school, or residentially-zoned property.
2. No license shall be issued for the operation of a pawnshop as defined in this Chapter wherein said pawnshop will be located within one thousand (1,000) feet of the property line of property on which there is located another pawnshop. (Ord. No. 368 §2, 11-10-93)

SECTION 620.030: OPERATION OF PAWNSHOP*A. Receipt For Pledged Property, Contents, Loss Of, Effect.*

1. At the time of making the secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for, and describing, the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:
 - a. The name and address of the pawnshop;
 - b. The name and address of the pledgor, the pledgor's description, the driver's license number, date of birth, height, weight, sex, race or nationality, and military identification number, identification certificate number, or other official number capable of identifying the pledgor;

- c. The date of the transaction;
 - d. An identification and description of the pledged goods, including serial numbers if reasonably available;
 - e. The amount of cash advanced or credit extended to the pledgor;
 - f. The amount of the pawn service charged;
 - g. The total amount which must be paid to redeem the pledged goods on the maturity date;
 - h. The maturity date of the pawn transaction; and
 - i. A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty (60) days after the specified maturity date.
2. If a pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction, or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the Secretary or State pursuant to Section 486.205, RSMo., to perform notarial acts in this State.

B. *Operational Regulations.*

1. The pawnbroker shall keep a register of all items pawned at each pawnshop, which register shall contain the information listed in Subsection (A)(1) of this Section.
2. All pawnbrokers shall install a proper camera in operative condition and shall use such equipment to photograph every person, and receipts of pawn shop tickets given to such persons with all loans and with all purchases of items from persons.
3. All pawnbrokers shall display, in a prominent place, a notice to customers that they are required to be photographed when they pawn, sell, or offer as a part or full payment, any item to the pawnbroker.
4. All such photographs shall be maintained and kept by the pawnbroker for a period of at least one (1) year following the taking of the photograph, and shall be available for development, and developed by the pawnbroker upon request by the Chief of Police.
5. The register and photographs provided for herein shall at all times be kept open to the inspection of Police Officers duly sworn by the City of Normandy, Missouri, under Chapter 590, RSMo. Every pawnbroker shall also, upon request, show and exhibit to any such officer, any article purchased, taken, or received by the pawnbroker if the item is still in the possession of the pawnbroker.

C. Hold Orders.

1. Whenever any Peace Officer has probable cause to believe that property in possession of a pawnbroker licensed by the City of Normandy is stolen or embezzled, said officer may place a written hold order on the property. The initial term of such order may not exceed thirty (30) days, except that the holding period may be extended in successive thirty (30) day increments upon written notification prior to the expiration of the immediately preceding holding period. If the holding period has expired and has not been extended as provided in this Section, the hold order shall be considered expired and no longer in effect and title shall vest in the pawnbroker, subject to any restrictions contained in the pawn contract. A hold order required by this Section shall contain the following:
 - a. Name of the pawnbroker;
 - b. Name, title and identification number of the Peace Officer placing the hold order;
 - c. Name and address of the agency to which the Peace Officer is attached and the offense number;
 - d. Complete description of the property to be held, including model number, serial number and transaction number;
 - e. Name of the agency reporting the property to be stolen or embezzled;
 - f. Mailing address of the pawnshop where the property is held; and
 - g. Expiration date of the holding period.
2. The pawnbroker or his/her designee shall sign and date a copy of the hold order as evidence of its receipt and the beginning of the initial holding period.
3. While the hold order is in effect, the pawnbroker may consent to release, upon written receipt, the stolen or embezzled property to the custody of the law enforcement agency to which the Peace Officer placing the hold order is attached. Such consent shall not be considered a waiver or release of the pawnbroker's property rights or interest in the property.
4. Except as provided in Subparagraph (3) of this Subsection, the pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period of the hold order, including all extensions.
5. In the event criminal charges have been filed in any Missouri court involving property which is in the possession of a pawnbroker licensed by the City of Normandy and which may be needed as evidence, the appropriate Prosecuting Attorney's office may place a written hold order on the property. Such order shall contain the case number, the style of the case and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the Prosecuting Attorney's office. The Prosecuting Attorney's office shall notify the pawnbroker in writing within fifteen (15) days of the disposition of the case.

6. Willful non-compliance by a pawnbroker to a written hold order shall be cause for the pawnbroker's license to be suspended or revoked. A hold order may be terminated at any time by written release from the law enforcement agency or Prosecuting Attorney placing the initial hold order.

D. *Loan Due, When—Return Of Collateral, When—Restrictions.*

1. Every secured person credit loan shall be due and payable in lump sum thirty (30) days after the date of the loan contract, or if extended, thirty (30) days after the date of the last preceding extension of the loan, and if not so paid when due, it shall, on the next day following, be in default. The lender shall retain possession of the tangible personal property subject to the security interest to secure payment of any secured personal credit loan for a period of sixty (60) days next following the date of default. If, during the period of sixty (60) days the borrower shall pay to the lender the principal sum of the loan, with the loan fee(s), and the interest due thereon to the date of payment, the lender shall thereupon deliver possession of the tangible personal property to the borrower. But if the borrower fails, during the period of sixty (60) days to make payment, the title to the tangible personal property shall, on the day following the expiration of the period of sixty (60) days, pass to the lender without foreclosure, and the right of redemption by the borrower shall be forever barred.
2. A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction.
3. Except as otherwise provided herein, any person properly identifying himself/herself and presenting a pawn ticket to the pawnbroker shall be presumed to be entitled to redeem the pledged goods described therein.
4. A pawnbroker shall not:
 - a. Accept a pledge from a person who is under eighteen (18) years of age;
 - b. Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
 - c. Accept any waiver, in writing or otherwise, or any right or protection accorded a pledgor under this Chapter or other law;
 - d. Fail to exercise reasonable care to protect pledged goods from loss or damage;
 - e. Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event such pledged goods are lost or damaged as a result of a pawnbroker's negligence while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kind of merchandise. Lenders shall not be responsible for loss of pledged articles due to acts of God, acts of war, or riots. Each lender shall employ, if reasonably available in his/her area, a reputable company for the purpose of fire and theft security;
 - f. Purchase or take in trade used or secondhand personal property unless a record is established that contains:

- (1) The name, address, physical description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the seller;
 - (2) A complete description of the property, including the serial number, if reasonably available, or other identifying characteristic; and
 - (3) A signed document from the seller providing that the seller has the right to sell the property.
5. A pawnbroker shall have no recourse when a customer has pledged goods for the receipt of money except the pledged goods themselves, unless the pledged goods are found to be stolen, embezzled, mortgaged or otherwise pledged or encumbered. When a customer is officially notified by a Peace Officer that the goods he/she pledged or sold to a pawnbroker were stolen or embezzled, the customer shall be liable to repay the pawnbroker the full amount the customer received from the pawn or buy transaction.
- E. *Pawnshop Not To Be Used As a Residence.* No pawnbroker or member of the pawnbroker's family, or employee, or any other person shall be permitted to live in a pawnshop or in rooms connecting therewith.
- F. *Hours Of Operation.* No pawn shop shall be open for business or receive as pawned, pledged, or purchased, or any condition whatsoever, any article of personal property or other valuable thing between the hours of 8:00 P.M. on any day and 7:00 A.M. on the following day.
- G. *Notice Of Goods To Be Shipped Out Of The City.* Every pawnbroker shall give the Chief of Police notice of all pawned goods to be shipped out of the City, which notice shall state the name of the pledgor and the destination and date of shipment. Such goods shall not be shipped for at least seven (7) days after delivery of the copy of the register to the Chief of Police.
- H. *Adequate Books And Records Required.* Each licensee shall keep, consistent with accepted accounting practices, adequate books and records relating to the licensee's pawn transactions, which books and records shall be preserved for a period of at least two (2) years from the date of the last transaction received therein. (Ord. No. 368 §3, 11-10-93)

SECTION 620.040: ENACTMENT OF RULES AND REGULATIONS

The Director may issue such rules and regulations as he/she deems necessary to implement this Chapter and the polices contained herein. (Ord. No. 368 §4, 11-10-93)

SECTION 620.050: PENALTIES

Any person found guilty of a violation of this Chapter may be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. (Ord. No. 368 §5, 11-10-93)

CHAPTER 625: PUBLIC UTILITIES GROSS RECEIPTS

SECTION 625.010: DEFINITIONS

For the purposes of this Chapter, the following terms shall have the meanings respectfully ascribed to them unless a different meaning clearly appears in the context:

GROSS RECEIPTS: The aggregate amount of all sales and charges of the commodities as services as herein described made by a public utility in the City of Normandy during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

PUBLIC UTILITY: Every individual, firm, corporation, partnership, joint venture, business trust, receiver and any other person, group, combination or association of any of them who shall be engaged in the business of supplying or furnishing electricity, electrical power, electrical service, gas, gas service, water, water service, telegraph service or exchange telephone service in the City of Normandy. (Ord. No. 4 §1, 6-6-77)

SECTION 625.020: ESTABLISHMENT OF LICENSE TAX—AMOUNT

Every individual public utility shall pay to the City of Normandy a license or occupational tax in the amount equal to eight percent (8%) of the gross receipts derived from business within the City of Normandy. (Ord. No. 112 §§1–2, 10-21-80; Ord. No. 229 §1, 12-11-84)

SECTION 625.030: LICENSE TAX RATE MAINTAINED

In accordance with the authority granted to the City of Normandy, Missouri, under Section 393.275.2, RSMo., the rate of the license or occupational tax for each public utility providing services within the City of Normandy, which tax was previously established by law and in Section 625.020 at the rate of eight percent (8%) of the gross receipts of each said utility derived from business within the City of Normandy, is hereby maintained at the aforesaid rate. (Ord. No. 246 §1, 5-13-86; Ord. No. 348 §1, 10-13-92; Ord. No. 349 §1, 11-10-92)

SECTION 625.040: MONTHLY REPORTS AND PAYMENTS

Every public utility shall file with the City Administrator of the City of Normandy a monthly statement showing the gross receipts derived from the operation of business during each month, which statement shall be filed within thirty (30) days after the close of each month, and the tax prescribed in Section 625.020 herein shall be paid at the time of the filing of such statement. (Ord. No. 36 §1, 3-14-78)

SECTION 625.050: TREASURER AUTHORIZED TO INSPECT RECORDS

The Treasurer of the City of Normandy or his/her deputies are hereby authorized to investigate the correctness and accuracy of any statement filed pursuant to this Chapter and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such return in order to ascertain the accuracy thereof. (Ord. No. 4 §4, 6-6-77)

SECTION 625.060: PAYMENTS IN LIEU OF OTHER OCCUPATION TAXES

The payments required by the provisions of this Chapter shall be in lieu of any other occupation taxes required of any public utility, but nothing herein contained shall be so construed as to exempt any public utility from the payment to the City of Normandy of taxes imposed upon the public generally by said City. (Ord. No. 4 §5, 6-6-77)

SECTION 625.070: VIOLATION AND PENALTY

Any public utility who shall violate any of the provisions of this Chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00). Each day's violation of this Chapter shall constitute a separate offense. (Ord. No. 4 §6, 6-6-77)

CHAPTER 630: TELECOMMUNICATIONS REGULATIONS

ARTICLE I. GENERAL PROVISIONS

SECTION 630.010: INTENT AND AMENDMENT OF PRIOR ORDINANCES

The City of Normandy (hereinafter referred to as "City") finds that the development of modern telecommunications has the potential of having great benefit and impact upon its citizens. Further, the pace of telecommunications advance is accelerating rapidly and dramatically. Video, voice, and data can now be carried anywhere in the State, or Nation (and soon internationally), instantly over wire, glass fiber, or through the air. Two (2) industries that were either *de jure* or *de facto* monopolies—telephone and cable television—are converging, becoming competitors or collaborators, and confronting new competitors. Because of the complex and rapidly changing technology associated with telecommunications, the City further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the City or such persons as the City shall designate. (Ord. No. 393 §1, 12-12-95)

SECTION 630.020: SHORT TITLE

This Chapter shall be known and be cited as the "Telecommunications Regulations".
(Ord. No. 393 §2, 12-12-95)

SECTION 630.030: DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "*shall*" is mandatory and "*may*" is permissive. Words not defined shall be given their common ordinary meaning.

BASIC CABLE SERVICE: The total of all the following:

1. The retransmission to all Subscribers of all local broadcast television channel signals authorized by the FCC and for which Grantee has received consent for carriage; and
2. The cablecasting to all subscribers of the Local Origination Channel, and the Public, Education and Government Access signals;

Basic cable service may be offered to subscribers in one (1) or more levels or combinations of programs. However, for purposes of rate regulation, if a more specific definition of a basic level to which rate regulation shall be applicable is defined in a franchise award ordinance, the definition in the franchise award ordinance shall apply.

BROADCAST SIGNAL: A television or radio signal that is transmitted over the air to a wide geographic audience and is received by a Cable Communications System off-the-air or by microwave link.

CABLE COMMUNICATIONS SYSTEM or SYSTEM also referred to as CABLE TELEVISION SYSTEM, CATV SYSTEM, or TELECOMMUNICATIONS SYSTEMS, BROADBAND COMMUNICATIONS NETWORK: A system of antennas, cables, amplifiers, towers, microwave links, cablecasting studios, and any other conductors, converters, equipment or facilities, designed and constructed for the primary purpose of distributing signals to and from subscribers, and the secondary purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, data, or other forms of signals.

CABLECAST SIGNAL: A non-broadcast signal that originates within the facilities of the Cable Communication System.

CABLE-MILE: A linear mile of cable as measured on the street or easement from pole to pole or pedestal to pedestal.

CITY: The City of Normandy, Missouri, as presently constituted and any areas subsequently annexed, and shall have the same meaning as "Grantor" defined herein. For all regulatory purposes, "City" shall mean "NATA" in that the City of Normandy has delegated all regulatory responsibility under this Chapter and any granting ordinance to NATA.

COMMENCEMENT OF CONSTRUCTION (or reference thereto): Time and date when construction of the Cable Communications System is considered to have commenced, which shall be when the preliminary engineering (strand mapping) or network design is initiated, and after all necessary permits and authorizations have been obtained.

COMMENCEMENT OF OPERATION (or reference thereto): Time and date when initial operation of the Cable Communications System is considered to have commenced, which shall be when sufficient distribution facilities have been installed so as to permit the offering of full service to at least twenty percent (20%) of the dwelling units located within the service area.

CONVERTER: Any device which converts signal carriers from one form to another.

COUNCIL: The City Council of the City of Normandy.

EDUCATIONAL CHANNEL or EDUCATION ACCESS CHANNEL: Any channel where educational institutions are the primary designated programmers.

FCC: The Federal Communications Commission and/or any legally appointed or elected successor.

FRANCHISE: The non-exclusive rights granted pursuant to this Chapter to construct and operate a Cable Communications System, which constitutes a telecommunications system along the public ways within all of the City. Any such authorizations, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of this City.

FRANCHISE AGREEMENT: A franchise award ordinance, accepted on the part of the Grantee, containing the specific provisions of the franchise granted, including referenced specifications, franchise applications, and other related material. The franchise agreement may modify terms of this Chapter by appropriate ordinance amendment or exception.

FRANCHISE PAYMENT: All charges imposed for a franchise.

GRANTEE: Any "person" receiving a franchise pursuant to this Chapter and under the granting franchise award ordinance, and its lawful successor, trustee, receiver, transferee or assignee.

GRANTOR: The City of Normandy, Missouri, as represented by its Governing Body acting within the scope of its jurisdiction.

GROSS ANNUAL REVENUES: The annual gross revenues received from the operation of the System (which shall include late fees, and any other revenues of that type), except that any sales, excise or other taxes collected for direct pass-through to local, State or Federal Government shall not be included. If a more specific definition is set out in franchise award ordinance, that definition shall prevail. Notwithstanding anything to the contrary, the term "gross revenues" shall not include any revenues derived directly or indirectly from ancillary telecommunications services (including, but not limited to, point-to-point telecommunications, telephony, data transmissions, etc.) unless all other providers of such services in the City are subject to the same or greater franchise fee, or gross receipts tax, or otherwise taxed as the law allows.

GROSS RECEIPTS TAX: That tax on utilities as defined and allowed under Ordinance No. 36 (see Section 625.040) of Grantor. In all contexts, a gross receipts tax shall only be collected on traditional cable television companies in the event that applicable law removes franchise limitations imposed on said cable television companies as currently exists under the Cable Communications Policy Act of 1984, as amended. In the event that a gross receipts tax is levied upon a cable television company, it shall be applied and enforced in the same way that same is applied to and enforced with telephony companies such as Southwestern Bell. In clarification of the above, this definition is designed to prevent Grantor from collecting both a gross receipts tax and franchise fee. It is the intention of the Grantor that a Grantee hereunder shall either be subject to a franchise fee, or a gross receipts tax, but not both.

INITIAL SERVICE AREA: The area of the City that will receive service initially, as set forth in the franchise award ordinance.

INSTALLATION: That connection of the system from feeder cable to subscriber's terminals.

MONITORING: Observing a communication signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer or provider of service, whether the signal is observed by visual or other means, for any purpose whatsoever. (Provided that monitoring shall not include sweeps if the system, or any part thereof, is being swept, by Grantee, Grantor, or a duly authorized agent of either Grantee or Grantor, for the purpose of verifying system integrity, controlling return path transmission or billing for any service.)

NORTH AREA TELECOMMUNICATIONS AUTHORITY or NATA: That entity established herein to assume the regulatory powers of the City under this Chapter pursuant to the provisions of Sections 70.210 to 70.320, RSMo., 1978, as amended, which provisions state that political subdivisions may cooperate with one another for common service and mutual benefits. Wherever "City" is read herein in a regulatory context, the term "City" shall mean NATA.

NON-BROADCAST SIGNAL: A signal that is transmitted by a telecommunications system and that is not involved in an over-the-air broadcast transmission path.

ORDINANCE: Any lawfully enacted order, or law, of a political subdivision of the State of Missouri, as defined by State Statute.

PAY-CABLE OR PAY TELEVISION: The delivery to subscribers, over the telecommunications system, television signals for a fee or charge over and above the charge for Basic Cable Service, in a per program, per channel or other subscription basis.

PENETRATION: The result expressed in percentage obtained by dividing the total number of potential subscribers in the franchise area into the number of subscribers receiving service from Grantee.

PERSON: An individual, partnership, association, organization, corporation, other entity or any lawful successor, transferee or assign thereof.

PROGRAMMER: Any person or entity who or which produces or otherwise provides program material or information from transmission by video, audio, digital, or other signals, either live or from recorded tapes or other stored media, to Subscribers, by means of telecommunications system.

REASONABLE NOTICE: A written notice addressed to the Grantee at its principal office or such other office as the Grantee has designated to the City as the address to which notice should be transmitted, which notice shall be either sent by certified mail, Federal Express (or their equivalents) and postmarked not less than ten (10) days prior to that day, or delivered personally by Grantor by and through its representative. In computing said ten (10) days, Saturday, Sundays and holidays recognized by the City shall be excluded. Actual notice shall be an absolute defense by the Grantor in any future action of any kind by Grantee where proper notice shall be an issue.

REASONABLE ORDER: A written order not excessive or extreme as to costs or time to comply.

RESIDENT: Any person residing in the City or as otherwise defined by applicable law.

SCHOOL: Any primary and secondary school, public, private, or parochial school.

SECTION: Any Section, Subsection, or provision of this Chapter.

SERVICE AREA: The entire geographic area within the franchise territory.

STATE: The State of Missouri.

STREET: Includes each of the following which have been dedicated to the public or hereafter dedicated to the public and maintained under public authority or by others and located within the City limits: Streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public ways and extensions and additions thereto, together with such other public property and areas that the City shall permit to be included within the definition of street from time to time.

SUBSCRIBER: Any person, firm, corporation, or other entity who or which elects to subscribe to, for any purpose, service provided by Grantee by means of or in connection with the telecommunications system.

SUBSTANTIALLY COMPLETED: That sufficient distribution facilities have been installed by the Grantee so as to permit the offering of full network service to at least ninety percent (90%) of the potential subscribers in the service area.

YEAR: The remaining portion of 1995. Thereafter, "year" means a full calendar year.
(Ord. No. 393 §3, 12-12-95)

ARTICLE II. GRANT OF FRANCHISE**SECTION 630.040: GRANT**

- A. In the event that Grantor shall grant to Grantee a non-exclusive, revocable franchise to construct, operate, maintain and reconstruct a Broadband Communications Network within the City, said franchise shall constitute a right to provide the services of a Broadband Communications Network as described by the provisions of this Chapter and by the franchise award ordinance. The franchise award ordinance shall include all provisions of a Grantee's proposal as finally negotiated and accepted by the Grantor and Grantee.
- B. Said franchise award ordinance shall be granted under the terms and conditions herein, consistent with applicable Missouri and, or Federal Statutes and FCC rules and regulations which are incorporated by this reference as if fully set forth herein. In the event of a conflict between the terms and conditions of said franchise and the terms and condition on which the Grantor can grant a franchise, the law of Missouri, and/or Federal law, or FCC rules and regulations, whichever takes precedence, shall, without exception, control.
- C. Nothing in any franchise award ordinance shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits and fees to be paid or manner of construction. (Ord. No. 393 §4(4.1), 12-12-95)

SECTION 630.050: FRANCHISE TERRITORY

If the Grantor shall issue a franchise award ordinance, it shall be for a service area which includes the entire City. (Ord. No. 393 §4(4.2), 12-12-95)

SECTION 630.060: USE OF PUBLIC STREETS AND WAYS

For the purpose of operating and maintaining a Broadband Communications Network in the City, the Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets, and ways within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the Broadband Communications Network. Prior to initial construction, however, the Grantee shall file plans with the appropriate City agencies, officers or department as designated by the City. Such approval shall be given or denied by the appropriate City Agency or office within thirty (30) days of submission of such request. If such permission is not denied within thirty (30) days, the Grantee may proceed as proposed. (Ord. No. 393 §4(4.3), 12-12-95)

SECTION 630.070: DURATION

The term of said franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be fifteen (15) years from the effective date of expiration for the existing franchise unless abridged or terminated as hereinafter provided. The effective date of the franchise award ordinance shall be upon final passage by the Council unless a Grantee fails to file, within thirty (30) days after

the date of notification of final passage in the appropriate office of the City and NATA, a written acceptance of the franchise, in which event it shall be null and void.
(Ord. No. 393 §4(4.4), 12-12-95)

SECTION 630.080: FRANCHISE NON-EXCLUSIVE

Any franchise granted shall be non-exclusive. The Grantor specifically reserves the right to grant, at any time, such additional franchises for a Broadband Communications Network as it deems appropriate. However, the terms of any franchise award ordinance or license granted to any other Grantee shall not be more favorable or less burdensome than any other franchise award ordinance. The effect of this provision is to require non-discrimination by the City in relation to multiple Grantees. However, the terms of this provision do not apply to any franchise presently in effect with any electric, gas, or other public utility company either regulated by the Missouri Public Service Commission or not. (Ord. No. 393 §4(4.5), 12-12-95)

SECTION 630.090: REVIEWS OF FRANCHISE GRANTS

- A. On or about the third (3rd), sixth (6th), ninth (9th), and twelfth (12th) anniversaries of the effective date of any grant of franchise, NATA may schedule and hold public meetings with any Grantee to review and evaluate the performance by the Grantee under the Franchise Agreement, including future plans of operation, service area structures, amendments to the ordinance and current judicial and FCC rulings, and Federal and State legislation. In particular, NATA may inquire whether the Grantee is supplying a level and variety of services equivalent to those being generally offered by the industry at that time in comparable market situations. The Grantee shall make available to NATA, if requested by NATA, such records and documents which are relevant for the purposes of the franchise review.
- B. Upon written notice given by NATA or Grantee, one to the other, not less than six (6) months prior to the third (3rd), sixth (6th), ninth (9th) and twelfth (12th) anniversaries, respectively, the terms and conditions of the franchise agreement may be modified, provided that both the NATA and the Grantee are agreeable to such modification. Modifications shall be directed toward effective alterations in the terms and conditions to reflect those technical, regulatory, and economic changes which have occurred during the interim period. (Ord. No. 393 §4(4.6), 12-12-95)

SECTION 630.100: TRANSFER OF OWNERSHIP OR CONTROL

A. *Transfer Of Franchise.*

- 1. Any franchise cannot in any event be sold, transferred, leased, assigned or otherwise disposed of in any manner, including, but not limited to, forced or voluntary sales, merger, consolidation, receivership, or other means, without the prior written consent of NATA. Such consent as required by NATA shall, however, not be unreasonably withheld.
- 2. The successor Grantee, upon any transfer as heretofore described, shall within sixty (60) days thereafter file with the City an instrument duly executed and certified reciting the fact of such sale assignment or lease, accepting the terms of this franchise ordinance and the franchise award ordinance subject to the terms of the transaction and agreeing to perform all the terms thereof.

3. Every such transfer as heretofore described, whether voluntary or involuntary shall be deemed void and of no effect unless Grantee shall within sixty (60) days after the same shall have been made, file such certified copy as is required.
- B. *Consent Not Waiver.* The consent or approval of NATA to any transfer by Grantee shall not constitute a waiver or release of the rights of the City in and to the streets, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of said franchise award ordinance.
- C. *Non-Approval Of Transfer, When.* In the absence of extraordinary circumstances, NATA will not approve any transfer or assignment of the franchise prior to substantial completion of initial construction of any proposed system.
- D. *Consent When Not Necessary.* Notwithstanding anything to the contrary, no prior consent shall be required for any transfer or assignment to any person controlling, controlled by or under the same common control as the Grantee. However, Grantor shall be notified thirty (30) days prior to any transaction under this provision. (Ord. No. 393 §4(4.7), 12-12-95)

SECTION 630.110: FRANCHISE RENEWAL

This franchise may be renewed upon application of Grantee pursuant to the then applicable law, or as Grantor may require by this Chapter. (Ord. No. 393 §4(4.8), 12-12-95)

SECTION 630.120: POLICE POWERS

- A. In accepting this franchise, Grantee acknowledge that its rights hereunder are subject to the Police power of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power.
- B. Any conflict between the provisions of this Chapter and any other present or future lawful exercise of the City police powers shall be resolved in favor of the latter. (Ord. No. 393 §4(4.9), 12-12-95)

SECTION 630.130: FRANCHISE FEE—GROSS RECEIPTS TAX, WHEN

A. *Annual Franchise Payment.*

1. A grantee of a franchise award ordinance hereunder shall pay to the City a fee in an amount equal to five percent (5%) of gross annual revenues as and if allowed by law.
2. Such payment shall be in addition to any other fee or tax and commence as of the effective date of the operation of the system by Grantee. In the event of a dispute as to the amount due the City, if the City so requests, Grantee shall furnish a statement of said payment certified by the financial officer of Grantee, which statement shall include total amounts of annual gross subscription service revenue and the above charges, deductions and computations for the period covered by the payment. If Grantee fails to produce a certified statement acceptable to the City, then, the City shall choose a CPA of at least regional reputation for honesty and competency, who shall have the authority to audit the books and records of Grantee. All reasonable charges for the said CPA services shall be borne by Grantee if the annual Gross Revenues reported to Grantor are, in the aggregate, at least one percent (1%) less than reported.

- B. *Acceptance By City.* No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this Chapter or for the performance of any other obligation of Grantee.
- C. *Failure To Make Required Payment.* In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, Grantee shall pay as additional compensation:
1. An interest charge, computed from such due date on such amount due, at the annual rate equal to the commercial prime interest rate in effect from time to time at Southwest Bank, St. Louis, Missouri, during such period until such amounts are fully paid, and
 2. A sum of money equal to expenses, cost, and attorneys' fees, if any, incurred by the City by reason of delinquent payment.
- D. *Conflict Of Laws.* Should it be adjudged or determined by a Court of competent jurisdiction that the amount of said franchise fees set out herein is in conflict with State or Federal law or FCC Rules and Regulations, then the amount set by this Chapter shall be the maximum allowable under controlling law.
- E. *Gross Receipts Tax—When.* In the event that the gross receipts tax applies, NATA shall be remitted the same proportion of the gross receipts tax as it presently receives from the franchise fee. And, in the event that Grantor is precluded by law from collecting a franchise fee and determines that imposition of a gross receipt tax requires approval of the voters of Grantor, the franchise fee shall remain in effect until the voters of Grantor shall have approved the imposition of a gross receipts tax. In all events, Grantor shall pass-through either the franchise fee or gross receipts tax to its customers. (Ord. No. 393 §4(4.10), 12-12-95)

SECTION 630.140: FORFEITURE, REVOCATION OR ABRIDGMENT

- A. *Grounds For Revocation Or Abridgment.* The City reserves the right to revoke any franchise award ordinance granted hereunder and rescind all rights and privileges associated with the franchise award ordinance in the following circumstances, each of which shall represent a default and breach under this Chapter and the franchise award ordinance grant:
1. If Grantee should default in the performance of any of its material obligations under this Chapter or under such documents, contracts or other terms and provisions entered into by and between the City and Grantee.
 2. If Grantee should fail to provide or maintain in full force and effect, the liability insurance coverage as required herein.
 3. If Grantee should frequently violate any orders or rulings of any regulatory body having jurisdiction over Grantee relative to this franchise unless such orders or rulings are being contested by Grantee in a Court of competent jurisdiction.
 4. If Grantee ceases to provide services for any reason within the control of Grantee over the Broadband Communications Network.
 5. If Grantee evades or attempts to evade any of the provisions of this Chapter or the franchise award ordinance or practices any fraud or deceit upon the City.

6. If Grantee's construction schedule is delayed for more than six (6) months later than the schedule contained in the franchise award ordinance.
 7. If Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.
 8. If Grantee violates any material provision of any applicable Federal or State law, or regulation.
- B. *Grantee Not At Fault, When.* Grantee shall not be declared at fault or be subject to any sanction under any provision of this Chapter in any case in which performance of any such provision is prevented for reasons beyond Grantee's reasonable control. A default, or fault, shall not be deemed to be beyond Grantee's control if committed by a corporation or other business entity controlling interest in Grantee, whether held directly or indirectly.
- C. *Procedure Prior To Revocation Hearing.* Revocation procedures shall be executed as required by the then applicable laws. If neither Federal nor State law preempts, the following shall apply:
1. The City may make written demand that Grantee comply with any such requirement, limitation, term, condition, rule or regulation or correct any action deemed cause for revocation. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may seek to abridge or terminate the franchise or the franchise term. Grantee may, within fifteen (15) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to the City shall specify with particularity the matters disputed by Grantee. Grantee's notice shall toll the running of the thirty (30) day period, and the matters in dispute, if any, shall be ripe for hearing.
 2. The City shall hear any persons interested therein, and shall determine, in its discretion, whether or not any alleged failure, refusal or neglect by Grantee was with just cause. The City shall supplement the decision with written findings of fact, and conclusions of law.
 3. If after hearing the dispute or claim is upheld by the City, Grantee shall have thirty (30) days from such a determination to remedy the violation or failure. At any time after that thirty (30) day period, the City may abridge or terminate the franchise, as is lawful. The time for Grantee to correct any alleged violation, or violation in fact, shall be extended by the City if the necessary action to correct the violation is of such a nature or character to require more than the time set forth above within which to perform provided Grantee commences the corrective action within the time set forth above and thereafter uses reasonable diligence to correct the violation.
- D. *Abridgment Of Franchise Term.* After following the procedure set out herein prior to revocation, and the Council finding a violation of this franchise or the franchise award ordinance, but not of sufficient gravity to require revocation of this franchise or the franchise award ordinance, or if the Council determines that revocation would not serve the public health, safety and welfare, the Council may abridge the term of the franchise award ordinance. For each offense or violation the Council may abridge the term of the franchise award ordinance for a period of time of not more than sixty (60) days. Each days violation of this Section may be considered a separate offense. Such abridgements of the franchise award ordinance term shall not in any event accumulate in the aggregate more than four (4) years total.

- E. *Disposition Of Facilities.* In the event a franchise award ordinance expires and any renewal is denied, revoked or otherwise terminated, the City may order the removal of the system facilities from the City within a reasonable period of time as determined by the City.
- F. *Restoration Of Property.* In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as prevailed prior to Grantee's removal of its equipment and appliances without affecting the gas, electrical or telephone system cables, wires or attachments. The City shall inspect and approve the condition of the public ways and public places; and cables, wires, attachments and poles after removal. The liability insurance as provided herein shall continue in full force and effect during the period of removal.
- G. *Restoration By City, Reimbursement Of Costs.* In the event of a failure by Grantee to complete any work required by Subsection (D) above and/or Subsection (E) above, or any work required by City law or ordinance within the time as may be established and to the satisfaction of the City, the City may after written notice to the Grantee and a reasonable opportunity for Grantee to act first, cause such work to be done and Grantee shall reimburse the City the cost thereof within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs.
- H. *City's Right Not Affected.* The termination and forfeiture of any franchise award ordinance shall in no way affect any of the rights of the City under the franchise award ordinance or any provision of law. (Ord. No. 393 §4(4.11), 12-12-95)

SECTION 630.150: RECEIVERSHIP AND FORECLOSURE

- A. *Termination Upon Bankruptcy.* Any franchise award ordinance granted shall at the option of the City Council, cease and terminate one hundred eighty (180) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred eighty (180) days, or unless:
 - 1. Such receiver or trustee shall have, within said one hundred eighty (180) days after their election or appointment, fully complied with all the terms and provisions of this Chapter and the franchise award ordinance granted pursuant hereto, and the receiver or trustee within said one hundred eighty (180) days shall have remedied all defaults under the franchise award ordinance; and
 - 2. Such receiver or trustee shall, within said one hundred eighty (180) days execute an agreement duly approved by the Court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of said franchise award ordinance.
- B. *Termination Upon Foreclosure.* Except for the existing lien holders, in the case of a foreclosure or other judicial sale of the plant, property and equipment of Grantee, or any part thereof, including or excluding this franchise, the Council may serve notice of termination upon Grantee and the successful bidder at such sale, in which event said franchise award ordinance and all rights and privileges of Grantee thereunder shall cease and terminate thirty (30) days after service of such notice, unless:
 - 1. The Council shall have approved the transfer of said franchise, as and in the manner in this Chapter provided, and

2. Such successful bidder shall have covenanted and agreed with the City to assume and be bound by all the terms and conditions of said franchise award ordinance. (Ord. No. 393 §4(4.12), 12-12-95)

SECTION 630.160: FRANCHISE REQUIRED

No Broadband Communications Network shall be allowed to occupy or use the streets of the City or be allowed to cooperate without a franchise award ordinance in accordance with the provisions of this Chapter except for franchises awarded under State law and in effect as of the date of passage and approval of this Chapter. Any Grantee providing any service under the terms of a valid franchise award ordinance shall have standing to enforce this provision.
(Ord. No. 393 §4(4.13), 12-12-95)

ARTICLE III. REGULATION OF FRANCHISE

SECTION 630.170: REGULATORY AUTHORITY

The Grantor shall exercise appropriate regulatory authority under the provisions of this Chapter and applicable law. Grantor, by passage and approval of this Chapter hereby confirms, participation with other governmental entities in a joint regulatory agency, with delegated responsibility in the area of cable and related communications—said agency being defined as NATA.
(Ord. No. 393 §5(5.1), 12-12-95)

SECTION 630.180: REGULATORY RESPONSIBILITY

The Grantor, acting jointly with other Grantors, hereby delegates the following regulatory responsibilities to NATA:

1. *Administration and enforcement.* Administration and enforcement of the provisions of the Broadband Communications Network franchise award ordinance(s).
2. *Coordination.* Coordination of the operation of public, governmental and/or educational channels, if any.
3. *Support to public agency users.* Provision of technical, programming and operational support to public agency users, such as City departments, schools and health care institutions.
4. *Procedures and standards for institutional operations.* Establishment of procedures and standards for institutional operations and services, use of dedicated channels, and sharing of public facilities.
5. *Planning.* Planning of expansion and growth of services, including interconnection of various systems.
6. *Interconnection.* Analysis of the possibility of integrating the Cable Communications Systems with other City, County, State or regional telecommunications networks.

7. *Policy.* Formulation and recommendation of long range telecommunications policy for the City.

8. *Community channels.* Selection and implementation of all things necessary to establish an entity that would ensure access to community channels that serve the public interest. (Ord. No. 393 §5(5.2), 12-12-95)

SECTION 630.190: RATE REGULATION

- A. *Initial Rates.* The City reserves the right, power and authority to regulate rates, having found that effective competition, as defined in Section 623 of the Cable Communications Policy Act of 1984, as amended, and applicable regulations, does not exist. The level(s) regulated shall be set out in the franchise award ordinance.
- B. *Rate Regulation.* If the City shall assume the authority to regulate rates, it shall do so in accordance with applicable State and Federal laws. (Ord. No. 393 §5(5.3), 12-12-95)

ARTICLE IV. GENERAL FINANCIAL AND INSURANCE PROVISIONS

SECTION 630.200: INDEMNIFICATION

- A. *Extent.* Grantee shall, upon acceptance of a franchise award ordinance grant, indemnify, defend and hold harmless the City, its officers, boards, commissions, agents, employees and attorneys from any and all claims, suits, judgments or damages in any way arising out of or through or alleged to arise out of or through the act or omissions of Grantee, its servants, employees, or agents. Both such indemnification's shall cover such claims arising in tort, contracts, violations of U.S. or State Constitutions, Statutes, ordinances, regulations, or from any source or on the basis of any theory whatsoever, but shall specifically exclude any litigation now existing or in the future between the City and any Grantor, its successors and assigns.
- B. *Tender Of Defense.* In the event any such claims shall arise, the City shall tender the defense thereof to Grantee; provided however, that the City, in its sole discretion, may participate in the defense of such claims at its own expense. (Ord. No. 393 §6(6.1), 12-12-95)

SECTION 630.210: INSURANCE

- A. *Kinds, Amounts.* Grantee shall maintain through the term of the franchise award ordinance insurance in amounts at least as follows:
 1. *Workmen's compensation insurance.* Such coverage as may be required by the workmen's compensation insurance and safety laws of the State of Missouri and amendments thereto.
 2. *Grantee's liability.* Each occurrence five hundred thousand dollars (\$500,000.00), aggregate one million dollars (\$1,000,000.00).
 3. *Comprehensive general liability.*
 - a. Bodily injury each person one million dollars (\$1,000,000.00),
 - b. Each occurrence one million dollars (\$1,000,000.00); and

- c. Property damage each occurrence two million dollars (\$2,000,000.00).
- 4. *Comprehensive automobile liability.* Including non-ownership and hired coverage as well as owned vehicles with minimum limits as follows:
 - a. Bodily injury for each person, one million dollars (\$1,000,000.00);
 - b. Each occurrence, one million dollars (\$1,000,000.00);
 - c. Property damage for each occurrence, two million dollars (\$2,000,000.00).
- B. *Copies Furnished.* Grantee shall furnish to NATA with copies of certificates of insurance.
- C. *Endorsement.* Such insurance certificates provided for herein shall name the City, its officers, boards, commissions, agents and employees as additional insures and shall contain the following endorsement:

"It is hereby understood and agreed that this insurance policy may not be canceled by the surety, or the intention not to renew be stated by the surety, until thirty (30) days after receipt by the City by registered mail of written notice of such intention to cancel or not renew."
- D. *No Limitation Of Liability.* The minimum amounts set forth herein for such insurance shall not be construed to limit the liability of Grantee to the City under the franchise award ordinance issued hereunder to the amounts of such insurance.
- E. *Change In Coverage's—When.* In the event that the City determines that the health, safety, and welfare of its citizens requires that the coverage amounts set out in this Chapter be increased (or decreased), the City, upon good cause shown, and after public hearing, may amend the amounts set out herein provided any such increased coverage amounts shall not exceed that typically provided by the Grantee in similar systems. (Ord. No. 393 §6(6.2), 12-12-95)

SECTION 630.220: FRANCHISE PROCESSING COSTS

Costs incurred by the City in any initial franchising process shall include but not be limited to, all costs of publication of notices, publication of the franchise award ordinance, consultant's and attorneys' fees, and all incidental costs, and shall be paid by Grantee as a precondition to the award of franchise. Reimbursement shall specifically include any litigation expense, including attorney's fees, arising out of the Cable Act. (Ord. No. 393 §6(6.3), 12-12-95)

ARTICLE V. DESIGN AND CONSTRUCTION PROVISIONS

SECTION 630.230: SYSTEM DESIGN

The Cable Communications System shall be constructed, reconstructed, or improved in accordance with the design requirements contained in the franchise award ordinance agreement. (Ord. No. 393 §7(7.1), 12-12-95)

SECTION 630.240: GEOGRAPHICAL COVERAGE

Grantee shall design, construct, or reconstruct the system in such a manner as to have the eventual capability to pass by every single-family dwelling unit, multiple-family dwelling unit, agency, and business establishment within the area of the franchise. Service shall be provided to Subscribers in accordance with the schedules and line extension policies specified in the franchise award ordinance. (Ord. No. 393 §7(7.2), 12-12-95)

SECTION 630.250: EARLY EXTENSION

In areas not meeting the requirement of mandatory extension of service, Grantee shall provide, upon the request of a potential Subscriber desiring service, an estimate of costs required to extend service to said Subscriber. Upon said Subscriber agreeing in writing to such costs, Grantee shall then extend service to said potential Subscriber. Grantee may require advance payment or assurance of payment satisfactory to Grantee. The costs paid for early extension shall be non-refundable, even if the area subsequently reaches the density required for mandatory extension. (Ord. No. 393 §7(7.3), 12-12-95)

SECTION 630.260: SYSTEM CONSTRUCTION SCHEDULE

- A. *Requirements.* Grantee shall comply with the requirements of the system construction schedule contained in the franchise award ordinance agreement. In all events, where it is technically and financially feasible, the NATA Cities shall be provided the benefits of reconstruction on a priority basis. However, if it is not technically and financially feasible, no franchise violation shall be deemed to have occurred.
- B. *Service Not Provided, Where.* Service need not be provided where power and telephone utilities are not available.
- C. *Revocation.* Unless otherwise provided in the franchise award ordinance agreement, the failure to begin construction, as the case may be, within six (6) months after award of the initial franchise ordinance may be grounds for franchise award ordinance revocation, at the option of the Grantor. (Ord. No. 393 §7(7.4), 12-12-95)

SECTION 630.270: PENALTIES FOR DELAY IN CONSTRUCTION

The Grantor may apply termination of the franchise conditions in connection with delays in initial system construction:

1. *Reduction of franchise period.* Reduction in the duration of the franchise award ordinance on a month-to-month basis for each month of delay.
2. *Termination.* Termination of the franchise award ordinance for delay exceeding six (6) months.
3. *Exclusion.* This Section shall not apply to system upgrades or rebuilds. (Ord. No. 393 §7(7.5), 12-12-95)

SECTION 630.280: PROVISION OF SERVICE

After service has been established by activating service cables for any area, neighborhood or group of homes meeting the criteria of the initial service area and the line extension policy, any requesting Subscriber or resident thereof shall be provided service within ninety (90) days from the date of request. (Ord. No. 393 §7(7.6), 12-12-95)

SECTION 630.290: UNDERGROUND CABLE

Underground cabling is encouraged. In any event, cables shall be installed underground at Grantee's cost where existing utilities are already underground. Previously installed aerial cable shall be put underground in concert with other utilities, when such other utilities may convert from aerial to underground construction. (Ord. No. 393 §7(7.7), 12-12-95)

SECTION 630.300: NEW DEVELOPMENT UNDERGROUND

- A. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give Grantee reasonable notice of such construction or development, and of the particular date on which open trenching will be available for Grantee's installation of cable conduit, pedestals and/or vaults, and laterals, all of which are to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching.
- B. Cost of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within fifteen (15) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the fifteen (15) day period, the cost of new trenching is to be borne by Grantee. Notice provided to Grantee by City of a preliminary plat request (as defined in the City's Planning and Zoning Ordinances), shall satisfy the requirement of reasonable notice if sent to the local general manager or system engineer of Grantee prior to approval of the preliminary plat request. (Ord. No. 393 §7(7.8), 12-12-95)

SECTION 630.310: STREET OCCUPANCY

- A. *Utilization Of Existing Poles.* Grantee shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct, or install any new, different, or additional poles, conduits, or other facilities whether on public or on privately-owned property until the written approval of the City is obtained, which approval shall not be unreasonably withheld. However, no location of any pole or wire holding structure of Grantee shall be a vested interest and such poles or structures shall be removed or modified by Grantee at its own expense whenever the City determines that the public convenience would be enhanced thereby. Grantee shall negotiate the lease of pole space and facilities from the existing pole owners.
- B. *Notification Of Construction.* Grantee shall notify the City at least ten (10) business days prior to the intention of Grantee to commence any construction in any streets. The City shall cooperate with Grantee in expeditiously granting any permits required, providing such grant and subsequent construction by Grantee shall not unduly interfere with the use of such streets, and the proposed construction shall be done in accordance with the pertinent provisions of the ordinances of the City.

- C. *Minimum Interference.* All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe condition and in good order and repair. Grantee shall, at all times, employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.
- D. *Restoration Of Streets.* Whenever a Grantee shall disturb the surface of any street alley, public highway, or ground for any purpose mentioned here, it shall restore the same to the condition in which it was prior to the opening thereof, and when any opening is made by a Grantee in any hard surface pavement in any street, alley or public highway a Grantee shall promptly refill the opening and restore the pavement. The Grantor following written notice to the Grantee and affording the Grantee the opportunity to act first, may refill and/or repave in case of neglect of a Grantee. The cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee in question. All excavations made by a Grantee in the streets, alleys and public highways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and ordinances of the Grantor as now or hereafter provided.
- E. *Removal Of Facilities.* Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Chief of the Police Department to remove any of Grantee's facilities, no charge shall be made by Grantee against the City for restoration and repair, unless such acts amount to gross negligence by the City.
- F. *Tree Trimming.* Grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wire and facilities, subject to the supervision and direction of the City. Except in emergency situations, no tree trimming shall occur except upon notice to the City of at least five (5) days. If the City desires, it shall supervise and direct trimming, and prohibit same if in the City's judgment the trees to be trimmed will be irreparably damaged.
- G. *Improvements By City.* Grantee at its expense shall protect, support, temporarily disconnect, relocate, or remove any property of Grantee when, in the opinion of the City, the same is required by reason of traffic conditions; public safety; street vacation; freeway or street construction; change or establishment of street grade; installation of sewers, drains, water pipes, power line, signal line, transportation facilities, tracks or any other types of structures; improvements by governmental agencies, whether acting in a governmental or proprietary capacity or any other structure of public improvement, including but not limited to movement of buildings, urban renewal and redevelopment, and any general program under which the City shall undertake to cause all such properties to be located beneath the surface of the ground. Grantee shall in all cases have the privilege, subject to the corresponding obligations, to abandon any property of Grantee in place. Nothing hereunder shall be deemed a taking of the property of Grantee and Grantee shall be entitled to a surcharge by reason of anything hereunder.
- H. *Payment Upon Grantee's Failure.* Upon failure of Grantee to commence, pursue or complete any work required by law or by the provisions of this Chapter to be done in any street, within the time prescribed and to the satisfaction of the City, the City may after thirty (30) days written notice to Grantee, at its option, cause such work to be done and Grantee shall pay to the City the cost thereof in the itemized amounts reported by the City to Grantee within thirty (30) days after receipt of such itemized report.

- I. *Paving Cuts.* Grantee shall make no paving cuts or curb cuts unless absolutely necessary, and only after written permission has been given by the City.
- J. *Installation In Conduit.* Grantee shall install in conduit all cables passing under any public roadway.
- K. *Reservations Of Street Rights.* Nothing in the franchise shall be construed to prevent the Grantor from constructing sewers, grading, paving, repairing and/or altering any street, alley or public highway, or laying down, repairing or removing water main or construction or establishing any other public work. All such work shall be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, poles or appurtenances of Grantee. If any such property of Grantee herein shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or any other public improvement, all such poles, wires, conduits or other appliances and facilities shall be removed or replaced in such manner as shall be directed by the Grantor so that the same shall not interfere with the said public work of the Grantor, and such removal or replacement shall be at the expense of Grantee.
- L. *Street Vacation Or Abandonment.* In the event any street, alley, public highway or portion thereof used by Grantee shall be vacated by the Grantor, or the use thereof discontinued by Grantee during the term of the franchise award ordinance, Grantee shall forthwith remove facilities therefrom and fully restore, repair or reconstruct the street area where such removal has occurred in such condition as may be required by the Grantor. In the event of failure, neglect or refusal of Grantee, after thirty (30) days' notice by the Grantor to repair, improve or maintain such street portion, the Grantor may do such work or cause it to be done, and the cost thereof as found and declared by the Grantor shall be paid by Grantee and collection may be made by court action or otherwise.
- M. *Movement Of Facilities.* In the event it is necessary temporarily to move or remove any of Grantee's wires, cables, poles, or other facilities placed pursuant to the franchise award ordinance, in order to lawfully move a large object, vehicle, building or other structure over the streets, alleys or highways of the Grantor, Grantee upon reasonable notice shall move same, at the expense of the person requesting their temporary removal. Payment shall be in advance of the work, and for such facilities as may be required to facilitate such movements. (Ord. No. 393 §7(7.9), 12-12-95)

SECTION 630.320: CONSTRUCTION AND TECHNICAL STANDARDS

A. Construction Standards.

1. *Compliance with safety codes.* All installation of equipment with the exception of temporary repairs to the system shall be of a permanent nature, durable and installed in accordance with the provisions of the National Electrical Code as amended, or other applicable City Codes.
2. *Construction standards and requirements.* All of Grantee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire cable, coaxial cable, fiber optic cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the City may deem proper to make, or to interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or municipal properties. (Ord. No. 393 §7(7.10), 12-12-95)

ARTICLE VI. SERVICE PROVISION**SECTION 630.330: NEW DEVELOPMENTS—AMENDMENT OF FRANCHISE**

It shall be the policy of the City to liberally amend this Chapter or a specific franchise award ordinance, upon application of Grantee, when necessary to enable Grantee to take advantage of any developments in the field of transmission of television, voice, data and/or radio signals which will afford it an opportunity, more effectively, efficiently or economically, to serve its customers. This Section shall not be construed to require the City to make any amendment. (Ord. No. 393 §8(8.1), 12-12-95)

SECTION 630.340: PROTECTION OF SUBSCRIBER'S PRIVACY

The Grantee shall, at all times, comply with applicable State and Federal laws pertaining to the protection of subscriber privacy. (Ord. No. 393 §8(8.2), 12-12-95)

SECTION 630.350: PROGRAM ALTERATION

Except as deletions are required or allowed by law, all programs of broadcasting stations carried by Grantee shall be carried in their entirety as received with announcements and advertisements and without additions. (Ord. No. 393 §8(8.3), 12-12-95)

ARTICLE VII. OPERATION AND MAINTENANCE**SECTION 630.360: REPORTS REQUIRED**

Grantee shall file with the City and NATA, on request, and in form and detail specified by NATA, no more than once each year, the following (except as otherwise noted):

1. *Facilities report.* An annual total facilities report setting forth the physical miles of plant constructed, rebuilt or in operation during the fiscal year. Such report shall also contain any revisions to the System "as built" maps filed with the City.
2. *Subscriber data.* This report shall be submitted quarterly. Written complaints, policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures, any system outages consisting of three (3) or more Subscribers in the same geographic area (within three (3) contiguous blocks of one another) and any other terms and conditions adopted as Grantee's policy in connection with its Subscribers shall be filed with the City and available upon request at Grantee's local office.
3. *Ownership report.* An ownership report, indicating all persons who at any time during the preceding year did own or control more than ten percent (10%) of Grantee.
4. *Conduct of business rules.* All rules, regulations, terms and conditions which Grantee has adopted for the conduct of its business.

5. *Financial report.* Annual gross revenue report certified by an officer of Grantee for the previous calendar year, including gross revenues from all sources and gross Subscriber revenues from each category of service.
6. *Activities report.* An annual summary of Grantee's previous year's activities including but not limited to Subscriber totals and new services. (Ord. No. 393 §9(9.1), 12-12-95)

SECTION 630.370: INFORMATION REQUIRED

- A. *Maintenance Of Information.* Grantee shall at all times maintain:
 1. A record of all written complaints received and interruptions or degradation of service experience for the preceding three (3) years.
 2. A full and complete set of plans, records and "as-built" maps showing the exact location of all Cable Communication System equipment installed or in use in the City, exclusive of Subscriber service drops.
- B. *Filing.* All matters required to be filed with the City shall be filed with the NATA office. (Ord. No. 393 §9(9.2), 12-12-95)

SECTION 630.380: MAINTENANCE AND COMPLAINTS

- A. *Business Office.* Grantee shall maintain an appropriate business office which shall be open during all usual business hours, have a publicly listed toll-free telephone and be so operated to receive Subscriber complaints and requests for repairs or adjustments on a twenty-four (24) hour basis. A written log shall be maintained listing all written complaints and their disposition. Said written log shall be available to NATA upon reasonable request during normal business hours. Copies of said log shall be made upon request by NATA.
- B. *Interruptions.* Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by a notice and shall occur during periods of minimum use of the system. A written log shall be maintained for all service interruptions.
- C. *Repair Force.* Grantee shall maintain a repair force of technicians which shall initiate response to Subscriber complaints or requests for service within twenty-four (24) hours after receipt of the complaints or requests on the next business day.
- D. *Information To Subscribers.* Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent(s) to whom such inquiries or complaints are to be addressed, and furnish information concerning the City office responsible for administration of the franchise award ordinance with the address and telephone number of the office. (Ord. No. 393 §9(9.3), 12-12-95)

SECTION 630.390: CONTINUITY OF SERVICE MANDATORY**A. *Right To Continuity.***

1. It shall be the right of all Subscribers to continue receiving service insofar as their financial and other obligations to Grantee are honored. In the event that Grantee elects to overbuild, rebuild, modify, or sell the system, or the City give notice of intent to terminate or fails to renew this franchise award ordinance, Grantee shall act as so as to ensure that all Subscribers receive continuous, uninterrupted service regardless of the circumstances.
2. In the event of a change of franchise, or in the event a new operator acquires the system, Grantee shall cooperate with the City, new franchisee or operator in maintaining continuity of service to all Subscribers. During such period, Grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services when it no longer operates the system.

- B. *Upon Failure City May Operate.*** In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the City or without just cause, the City may, at its option, operate the System or designate an operator until such time as Grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for Grantee, Grantee shall reimburse the City for all reasonable costs or damages in excess of revenues from the system received by the City. However, this provision shall not affect the rights of any lien holder. (Ord. No. 393 §9(9.4), 12-12-95)

SECTION 630.400: GRANTEE RULES AND REGULATIONS

Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable Grantee to exercise its rights and perform its obligations under said franchise award ordinance, and to assure an uninterrupted service to each and all of its customers. Provided however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof and other applicable local, State and Federal laws, rules and regulations. (Ord. No. 393 §9(9.6), 12-12-95)

ARTICLE VIII. RIGHTS RESERVED TO GRANTEE**SECTION 630.410: RIGHT OF GRANTEE**

Should Grantee become dissatisfied with any material decision or ruling of the Grantor pertaining to cable communication matters, Grantee may pursue such other remedies as are available, including the bringing of any action to any court of competent jurisdiction.
(Ord. No. 393 §10(10.1), 12-12-95)

ARTICLE IX. MISCELLANEOUS PROVISIONS**SECTION 630.420: COMPLIANCE WITH CITY, STATE AND FEDERAL LAWS**

Notwithstanding any other provisions of this Chapter to the contrary, Grantee shall at all times

comply with all laws and regulations of the City, State and Federal Government or any administrative agencies thereof. Provided however, if any such State or Federal law or regulation shall require Grantee to perform any service, or shall permit Grantee to perform any service, or shall prohibit Grantee from performing any service, in conflict with the terms of this franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, Grantee shall notify the City of the point of conflict believed to exist between such regulation or law and the laws or regulations of the City or this franchise. (Ord. No. 393 §11(11.1), 12-12-95)

SECTION 630.430: NOTICES

All notices from Grantee to the City pursuant to this franchise shall be to the City Clerk and to NATA. Grantee shall maintain with the City, throughout the term of the franchise award ordinance, an address for service of notices by mail. Grantee shall also maintain appropriate local offices and telephone numbers for the conduct of matters related to this franchise or the franchise award ordinance during normal business hours. Upon written request by Grantee, the City shall provide copies of all notices given under operation of these regulations, or any franchise award ordinance, to Grantee's lender. (Ord. No. 393 §11(11.2), 12-12-95)

SECTION 630.440: PUBLIC NOTICE

Minimum public notice of any public meeting relating to this franchise or the franchise award ordinance shall be by publication of at least one (1) notice in a newspaper of general circulation in the area at least ten (10) days prior to the meeting, and by posting at City Hall, and by announcement on one (1) channel of Grantee's System, between the hours of 7:00 P.M. and 9:00 P.M. for five (5) consecutive days prior to the meeting. (Ord. No. 393 §11(11.3), 12-12-95)

SECTION 630.450: CAPTIONS

The captions to Sections throughout this Chapter are intended solely to facilitate reading and reference to the Sections and provisions of this Chapter. Such captions shall not affect the meaning or interpretation of this Chapter. (Ord. No. 393 §11(11.4), 12-12-95)

SECTION 630.460: NO RECOURSE AGAINST THE GRANTOR

Except for actions seeking equitable relief, Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, agents or employees for any loss, cost, expense, or damage arising out of any provision because of the enforcement of the franchise. (Ord. No. 393 §11(11.5), 12-12-95)

SECTION 630.470: NON-ENFORCEMENT BY THE GRANTOR

Grantee shall not be relieved of its obligation to comply with any of the provisions of this Chapter or said franchise award ordinance by reason of any single or repeat failure of the Grantor to enforce compliance. (Ord. No. 393 §11(11.6), 12-12-95)

SECTION 630.480: THEFT OF SERVICES AND TAMPERING

- A. *Violation.* No person, whether or not a Subscriber to the Cable System may intentionally or knowingly damage or cause damage to Grantee, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus or appurtenances of Grantee with the intent to obtain a signal or impulse from the Cable System without authorization from Grantee and compensation (at Grantee's option) to Grantee, or to obtain cable television or other communications services with intent to cheat or defraud Grantee of any lawful charge which it is entitled.
- B. *Punishment.* Any person convicted of a violation of any provision of Subsection (A) above is subject to a fine of not more than five hundred dollars (\$500.00) for each offense or imprisonment of not more than ninety (90) days, or both such fine and imprisonment, or such maximum punishment permitted under then applicable State and Federal law. Each day's violation of this Section shall be considered a separate offense. (Ord. No. 393 §11(11.7), 12-12-95)

SECTION 630.490: ACCEPTANCE

Any ordinance awarding a franchise to a specific company, and this Chapter, shall be accepted by Grantee by written instrument executed and acknowledged in the same legal form as a conveyance of real property is required to be, and then, filed with the City Clerk within thirty (30) days after notification of the passage of the ordinance awarding a franchise. Such written instrument shall state the acceptance of this Chapter and the ordinance awarding a franchise and their terms, conditions and provisions; and said Grantee shall agree that the statements and recitals therein are correct and that it has made and does make the agreements, statements and admissions in the ordinance recited to have been or to be made. (Ord. No. 393 §12, 12-12-95)

ARTICLE X. NORTH AREA TELECOMMUNICATIONS AUTHORITY—NATA**SECTION 630.500: NORTH AREA TELECOMMUNICATIONS AUTHORITY—NATA**

Pursuant to the provisions of Sections 70.210 to 70.320, RSMo., 1978, as amended, political subdivisions may cooperate with one another for common service and mutual benefits. To that end, the political subdivisions which have passed a franchise regulatory ordinance identical to this and are parties to this Agreement hereby mutually agree to establish and do establish a "North Area Telecommunications Authority" and which may be referred to as "NATA" as the successor to NACTA (North Area Cable Television Authority). (Ord. No. 393 §14, 12-12-95)

SECTION 630.510: PURPOSE

- A. The purpose of NATA herein established is to foster cooperation among the political subdivisions who are members of the authority to obtain the most reasonable subscriber rates for the highest possible level of telecommunications services for the residents of its political subdivisions. The authority may also work on behalf of the political subdivisions to improve the quality of services provided to residents as a result of new telecommunications technologies and to ensure a coordinated and functioning system through the central administration of the cable television franchise granted

by the governing bodies of the political subdivisions to American Cablevision of St. Louis, a division of Time Warner Entertainment—Advance/ Newhouse, a New York General Partnership or its lawful successors or assigns, doing all things allowed by law to accomplish such purposes, or any other Grantee common to all the member municipalities.

- B. Further, in recognition of the rapid changes in telecommunications as the so-called information superhighway develops nationally and internationally, the member Cities believe that optional growth and deployment of telecommunications in the NATA Cities will be obtained primarily through competitive private investment, not by governmental planning. Nevertheless, NATA hereby assumes as part of its purpose, the maximization of the social and economic benefits of the new, more competitive telecommunications environment. To those ends, NATA shall be guided by the following goals:
1. Business and social services must have access on competitive terms to the services, speed, and reliability of the developing informational superhighway.
 2. Quality service standards are essential to ensure reliability and disaster resistance, and to maintain privacy and other consumer protections.
 3. The advances in the communications industry must be used to narrow, not to widen, the distances between human beings. Telecommunications must promote social inclusion and universal service.
 4. Competition will stimulate modernization and innovation, allow for greater choice and foster higher service quality for users.
 5. Modern telecommunications should make the NATA Cities more desirable places to live, in part by enhancing the efficacy of the educational systems and the provision of healthcare.
(Ord. No. 393 §14(14.1), 12-12-95)

SECTION 630.520: ESTABLISHMENT OF BOARD OF DIRECTORS

NATA shall establish a Board of Directors, herein, called "Board", which shall be organized in the following manner:

1. Each "participating jurisdiction," as defined herein, shall be entitled to one (1) voting representative and one (1) alternate representative.
2. *"Participating jurisdiction"* shall include the following:
 - a. The City of Ferguson (City);
 - b. Bel-Nor (Village);
 - c. Beverly Hills (City);
 - d. Calverton Park (Village);
 - e. Cool Valley (City);
 - f. Dellwood (City);

- g. Glen Echo Park (Village);
- h. Greendale (City);
- i. Hillsdale (Village);
- j. Normandy (City);
- k. Norwood Court (Town);
- l. Pasadena Hills (City);
- m. Pasadena Park (Village);
- n. Uplands Park (Village);
- o. Velda City (City);
- p. Velda Village Hills (Village);
- q. Vinita Terrace (Village).

Each "*participating jurisdiction*" shall have executed franchise agreements with the cable television company approved by the governing bodies of the parties to this Agreement for the purpose of providing cable television services to the NATA service area, and with Southwestern Bell Telephone Company, or an affiliate thereof.

3. Each "*participating jurisdiction*" shall be entitled to one (1) representative on the Board of Directors (excluding Alternates). Each representative shall be entitled to one (1) vote. Each representative shall be entitled to one (1) additional vote for each one thousand (1,000) subscriber households or fraction thereof above the first one thousand (1,000) subscriber households located within the corporate limits of said "*participating jurisdictions*." The housing count shall be determined by the most recent quarterly franchise fee report from the Grantee. Unless a weighted vote is called for, normal voting procedures will be followed.
4. Each "*participating jurisdiction*" shall select and appoint its representative as defined herein in accordance with the rules and procedures of each "*participating jurisdiction*." In the absence of said representative, the alternate selected and appointed by said "*participating jurisdiction*" shall be entitled to cast said vote. Voting shall be by representative or alternate present at the Board meeting and no proxy or in absentia voting shall be allowed.
5. No elected or appointed official of a participating jurisdiction with an ownership or financial interest, however direct or indirect, in the cable television company or local exchange company (i.e., local telephone company) granted a franchise by a political subdivision shall be eligible to be a representative or alternate representative on the Board.
6. The Board may appoint any standing committee(s) and special committee(s) and/or task forces to make recommendation to the Board with respect to any changes in the recommendation to the Board with respect to any changes in the telecommunications system that may result from new telecommunications technology and any other matters involving the exercise of the Board's duties and responsibilities.

7. The Board, not less often than annually, shall report to the participating jurisdictions its action taken hereunder with respect to the administration of the cable television and telecommunications systems within the member Cities. (Ord. No. 393 §14(14.2), 12-12-95)

SECTION 630.530: ORGANIZATION OF THE BOARD OF DIRECTORS

NATA shall be administered by a Board of Directors appointed in accordance with this ordinance/agreement. All appointments to the Board shall be selected and approved by the governing bodies of the political subdivisions which are parties to this agreement. Directors need not be representatives on such governing bodies or employees of the political subdivisions. A quorum shall consist of not less than one-third ($\frac{1}{3}$) of the Directors and a majority of a quorum must be present for business to be transacted. The Board shall select annually, from among its membership, a Chairman and such other officers as may be required under the by-laws created by NATA. Such elected officers shall constitute an Executive Committee, shall meet regularly, prepare agendas for Board meetings and make recommendations to the full Board on any matter falling within the jurisdiction of the Board of Directors. The Board may, through its by-laws, delegate such functions and duties to the Executive Committee as the Board deems appropriate to fulfill its obligations under this Agreement. Directors shall serve without compensation from NATA. (Ord. No. 393 §14.3, 12-12-95)

SECTION 630.540: POWERS AND DUTIES OF THE BOARD OF DIRECTORS

The powers and duties of the Board are hereby established as follows:

1. The Board shall establish its own by-laws by a two-thirds ($\frac{2}{3}$) vote of the members present at a regularly scheduled meeting of the Board which shall include the following provisions:
 - a. Provisions for regular and special meetings;
 - b. Provisions for minutes of all Board meetings to be mailed to all the participating jurisdiction;
 - c. Provisions for the preparation of an agenda for meetings of the Board;
 - d. Determination of the number of officers that will be required in order to ensure the Board's ability to carry out its assigned duties along with a method for selection of officers from among the Board's membership;
 - e. Such other provisions as the Board may determine necessary for the efficient administration of its responsibility.
2. The Board shall have the following functions which shall be delegated to it by the political subdivisions which are parties to this agreement.
 - a. Advise and make recommend to the political subdivisions on matters which might constitute grounds for revocation of any franchise in accordance with provisions stated in this Chapter;
 - b. Advise and recommend to the political subdivisions on matters which might constitute

grounds for revocation of any franchise in accordance with provisions stated in this Chapter;

- c. Review the performance of any franchisee or grantee hereunder and make recommendations to said political subdivisions on the need for the regulation of rates and requests for changes in rates.
- d. Advise and recommend to the political subdivisions on matters affecting the renewal and enforcement of the franchise.
- e. Advise the political subdivisions on matters pertaining to compliance with the construction timetable.
- f. Conduct franchise review and evaluation hearings, in accordance with provisions stated herein and in all applicable law. The findings of such hearings shall be in written form and made available to all political subdivisions which are parties to this agreement;
- g. Mediate and resolve serious disagreements among the Grantee, subscribers and public or private users of the telecommunications system which have not been resolved through direct negotiation of the parties involved, in accordance with provisions stated in this Chapter;
- h. Review the use of the cable access channels, and prepare any necessary reports describing the utilization of such access channels;
- i. Conduct an annual meeting for the political subdivisions including an account of all funds received and distributed, a review of any plans and any other matters specified by the Board of Directors or requested by political subdivisions, for the election of officers;
- j. Supervise and coordinate the interconnection of the Grantee's system with other systems;
- k. Maintain and review all Grantee records, and at the Board's discretion, require the preparation and filing of information additional to that required therein;
- l. Review the franchises that the member Cities have with the local exchange company (Southwestern Bell Telephone Company), and devise a program, as the applicable law may allow, to ensure interconnection of all telecommunications systems within the NATA member Cities.
- m. Establish a liaison with the economic development efforts of member Cities and with the Missouri Department of Economic Development with the understanding that modern information processing makes it possible for companies and businesses to pursue new competitive strategies. Combining computers with telecommunications systems enables even the smallest of businesses to reasonably consider growth strategies otherwise unobtainable. The support of economic development efforts in the NATA area shall be a primary responsibility of the NATA Board.
- n. Establish a liaison with the area's educational institutions including the University of Missouri, St. Louis Community College at Florissant Valley and work to achieve interconnection with said institution's telecommunications networks so that said networks may be brought to NATA area schools (and in that regard the NATA Board shall work with the respective school boards), and to NATA area businesses and residences. In

establishing this responsibility for the Board, it is recognized that the University has begun to explore ways of bringing healthcare, education and training to residents and businesses of the State of Missouri in ways that will enhance the quality of life. The NATA Board shall work and develop information and expertise in the expanding capabilities of the informational superhighway.

- o. Monitor legislative efforts of the Federal and State Governments as regards telecommunications, and to support or oppose legislative efforts as the Board shall determine. However, before the Board actively supports or opposes any legislation, it shall report its policies to the member Cities for discussion and review. Within a reasonable amount of time of the passage and approval of this Chapter, the Board shall issue regulations relative to the development of legislative policies.
- p. Encourage all telecommunications providers, including long distance companies and bypass companies, to cooperate in the provision of the most modern services, and to utilize NATA as a testing entity for new services and technologies.
- q. Determine any violation, assess and collect such penalties on behalf of the political subdivisions, in accordance with provisions stated herein; and,
- r. Accept any additional powers which may be delegated to it by the political subdivisions which are not inconsistent with applicable laws or regulations of the State of Missouri or the United States of America. (Ord. No. 393 §14(14.4), 12-12-95)

SECTION 630.550: RESIGNATION OF DIRECTOR

In the event of the resignation or removal of any Director from office, the relevant Governing Body of the participating jurisdiction shall proceed immediately to select and appoint a successor for the balance of the current term. (Ord. No. 393 §14(14.5), 12-12-95)

SECTION 630.560: EMPLOYMENT OF EXECUTIVE DIRECTOR

The Board may employ a full-time staff, including an Executive Director, assistants and consultants, as it deems necessary to fulfill its duties, and the Board may delegate such of its duties, responsibilities and authority as it deems responsible and necessary to the Executive Director. (Ord. No. 393 §14(14.6), 12-12-95)

SECTION 630.570: RESPONSIBILITIES OF THE POLITICAL SUBDIVISIONS

- A. Each of the political subdivisions which are parties to this agreement shall agree to reasonably cooperate with NATA, the Board of Directors or its employees and with each other in the following matters:
 - 1. The adoption and necessary amendment of the Cable Television Regulatory Ordinance and the Cable Television Franchise Ordinance, and rules and regulations for the subscribers;
 - 2. The granting of full faith and credit to the provisions of the ordinances of other political subdivisions and the implementation of such provisions where possible;

3. Furnishing of information and/or assistance which may be necessary to the successful operation of NATA and the Board;
4. Sponsoring legal action necessary and desirable for the enforcement of the cable television franchises, including legal action necessitated due to audit procedures or other circumstances; and
5. Any political subdivision which fails to act upon recommendations from the Board of Directors, pursuant to this agreement, shall within thirty (30) days provide to the Board of Directors a written report in which is stated its reasons for inaction or disagreement.
(Ord. No. 393 §14(14.7), 12-12-95)

SECTION 630.580: ALLOCATIONS OF COSTS

- A. The North Area Telecommunications Authority shall place all of the non-refundable application fees required under the Request of Proposals on deposit for use by the Board as it deems proper and necessary in order to fulfill the terms and conditions of this agreement.
- B. Should the total amount of the non-refundable application fees decrease to an amount determined by the Board to be inadequate to continue operations, the Board may request an allocation from the political subdivisions to be allocated on the same ratio of the total amount required to continue NATA operations as the individual municipalities total franchising fees are to the total fees paid to all political subdivisions.
- C. The Board may establish rate schedules and authorize direct charges to be billed to political subdivisions which request special information or extraordinary services.
(Ord. No. 393 §14(14.8), 12-12-95)

SECTION 630.590: FISCAL RESPONSIBILITY

The fiscal officer appointed pursuant to the by-laws of the Board shall keep all monies collected hereunder in the manner provided by law in a segregated and separate bank account. He/she shall keep records showing the amount of all fees paid by any Grantee, along with all increments, additions and investment interests thereto or thereon. He/she shall invest, so far as practicable, all monies received by him/her and the interest received on account thereof shall be applied to reduce the total cost of operation of NATA without regard to any allocation of such interest to participating jurisdictions. He/she shall prepare invoices for all billings authorized by the Board. The investments as made by the fiscal officer shall be subject to the approval of the Board of Directors. No check shall be drawn on any account established by NATA unless the signature of at least two (2) officers is obtained as provided in the by-laws of the Board. (Ord. No. 393 §14(14.9) 12-12-95)

SECTION 630.600: AUDIT

The Board shall cause an annual audit to be made of the operations of NATA by an independent certified public accounting firm of its choice for the purpose of verifying the correctness of all accounting procedures employed, all distributions of funds made, allocations of all costs and all reports submitted to the participating jurisdictions. The expenses of such audit shall be part of the costs of the administration of NATA, and copies of the audit shall be furnished to all participating jurisdiction. (Ord. No. 393 §14(14.10), 12-12-95)

SECTION 630.610: TELECOMMUNICATIONS POLICY

NATA shall adopt and promulgate specific rules and regulations governing telecommunications policy for the franchises granted under this Chapter not inconsistent with the applicable regulations of the Federal Communication Commission, the State of Missouri or of any franchise. Said rules and regulations shall be reviewed, approved, modified or disapproved by the Board and published if required by law. (Ord. No. 393 §14(14.11), 12-12-95)

SECTION 630.620: CANCELLATION OF THE AGREEMENT

- A. Any political subdivision may withdraw from the agreement provided, that any such withdrawal shall be effective only on December thirty-first (31st) of any given year, and shall be presented by written notice of withdrawal delivered to NATA by registered or certified mail not later than July first (1st) of such year. Any political subdivision which withdraws from NATA shall pay to NATA, as liquidated damages, a lump sum equal to thirty percent (30%) of all franchise fees received by the political subdivision from the Grantee for the two (2) years preceding withdrawal.
- B. NATA may be dissolved by two-thirds ($\frac{2}{3}$) of the political subdivisions which are parties to this agreement, and in such event, NATA shall liquidate all of the assets of the Board, pay all outstanding debts, and distribute the remaining funds to the political subdivisions in the proportion that they share costs as provided in this agreement. (Ord. No. 393 §14(14.12), 12-12-95)

SECTION 630.630: AMENDMENTS

This agreement may be amended by concurrent ordinance by the Governing Bodies of all political subdivisions which are parties hereto. (Ord. No. 393 §14(14.14), 12-12-95)

SECTION 630.640: SEVERABILITY

In the event any part or portion of this Chapter/agreement shall be found to be contrary to law and thereby held to be null and void, all other provisions shall remain in full force and effect and shall not be otherwise affected by any such ruling, finding, or decision.
(Ord. No. 393 §14(14.15), 12-12-95)

